

REED SMITH SHAW & McCLAY

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AUG 26 1987 2:40 PM

INTERSTATE COMMERCE COMMISSION
August 24, 1987

Secretary
Interstate Commerce Commission
Washington, D.C. 20423

RE: Documents for Recordation Pursuant
to 49 U.S.C. § 11303

REED SMITH & CHAPIN
DELRAY BEACH, FL

ICC OFFICE OF
THE SECRETARY
AUG 26 2 37 PM '87
MOTOR OPERATING UNIT

Dear Sir:

Enclosed herewith is an original and one counterpart of the three documents described below, to be recorded pursuant to Section 11303 of Title 49 of the United States Code.

The documents are as follows:

1. Master Lease Agreement dated as of August 20, 1987 between Whirlpool Acceptance Corporation, a Delaware corporation, as Lessor and The Dow Chemical Company, a Delaware corporation, as Lessee. This is a primary document.
2. Equipment Schedule No. 1 dated as of August 24, 1987 between Whirlpool Acceptance Corporation, a Delaware corporation, as Lessor, and The Dow Chemical Company, a Delaware corporation, as Lessee. This is a secondary document, and the primary document to which it is related is the Master Lease Agreement referred to above, to which recordation numbers have not yet been assigned. We request that this Equipment Schedule No. 1 be cross-indexed.
3. Loan and Security Agreement dated as of August 20, 1987 between Whirlpool Acceptance Corporation, a Delaware corporation, as mortgagor and assignor, and Mellon Bank, N.A., a national banking association, as mortgagee and assignee. This is a primary document, because it grants a lien on certain rolling stock, and is also a secondary document, because it assigns the Master Lease Agreement referred to above all Equipment Schedules thereto heretofore or hereafter entered into. To the extent this Loan and Security Agreement is a secondary document, the primary documents to which it relates are the Master Lease Agreement and the Equipment Schedule No. 1 referred to above, to which recordation numbers have not yet been assigned. We request that the Loan and Security Agreement, to the extent it constitutes an assignment, be cross-indexed.

Counterpart - Christopher W. Roddy

REED SMITH SHAW & McCLAY

Secretary, Interstate Commerce Commission -2-

August 24, 1987

Whirlpool Acceptance Corporation, a Delaware corporation, has its principal place of business at 553 Benson Road, Benton Harbor, Michigan 49022. The Dow Chemical Company, a Delaware corporation, has its principal place of business at 2030 Willard H. Dow Center, Midland, Michigan 48674. Mellon Bank, N.A., a national banking association, has its principal place of business at One Mellon Bank Center, Pittsburgh, Pennsylvania 15258.

The following equipment is subject to the Master Lease Agreement: Equipment and other personal property to be specified from time to time heretofore or hereafter by Equipment Schedules, and including but not limited to certain railroad cars, locomotives and other railroad rolling stock and other property intended for use relating to interstate commerce, or interests therein, owned by Whirlpool Acceptance Corporation at the date of said Master Lease Agreement at the date of said Master Lease Agreement or thereafter acquired by it.

The following equipment is subject to Equipment Schedule No. 1 (together with all additions, accessions, replacements, products and proceeds):

One hundred fifty (150) ACF Model 5800LT Center Flow Covered Hopper Cars, A.A.R. designation No. C214, bearing serial nos. DOWX 20200 (inclusive) through DOWX 20349 (inclusive).

One (1) locomotive, 1500 HP Model MP15T, A.A.R. designation No. D312, bearing serial no. 866139-1.

The following equipment is subject to the Loan and Security Agreement: Equipment and other personal property specified in the Master Lease Agreement dated as of August 20, 1987 between Whirlpool Acceptance Corporation and The Dow Chemical Company, as amended, modified or supplemented from time to time heretofore or hereafter, including all Equipment Schedules thereto, including but not limited to certain railroad cars, locomotives and other railroad rolling stock and other property intended for use relating to interstate commerce, or interests therein, owned by Whirlpool Acceptance Corporation at the date of said Master Lease Agreement or thereafter acquired by it, and including but not limited to one hundred fifty (150) ACF Model 5800LT Center Flow Covered Hopper Cars, A.A.R. designation No. C214, bearing serial nos. DOWX 20200 (inclusive) through DOWX 20349 (inclusive), and one (1) locomotive, 1500 HP Model MP15T, A.A.R. designation No. D312, bearing serial no. 866139-1, together with all additions, accessions, replacements, products and proceeds.

REED SMITH SHAW & McCLAY

Secretary, Interstate Commerce Commission -3-

August 24, 1987

A short summary of the above documents to appear in the index follows:

1. Master Lease Agreement. Type of Document: Lease. Master Lease Agreement, dated as of August 20, 1987 between Whirlpool Acceptance Corporation, a Delaware corporation, whose principal place of business is at 553 Benson Road, Benton Harbor, Michigan 49022, as Lessor, and The Dow Chemical Company, a Delaware corporation, whose principal place of business is at 2030 Willard H. Dow Center, Midland, Michigan 48674, as Lessee, which covers amounts and types of equipment and other personal property to be specified from time to time heretofore or hereafter by Equipment Schedules. All right, title and interest of the Lessor in and to the Master Lease Agreement and Equipment Schedules has been assigned to Mellon Bank, N.A., pursuant to a Loan and Security Agreement dated as of August 20, 1987 between Whirlpool Acceptance Corporation and Mellon Bank, N.A.

2. Equipment Schedule No. 1. Type of Document: Supplement to Lease. Equipment Supplement No. 1, dated as of August 24, 1987, between Whirlpool Acceptance Corporation, as Lessor, and The Dow Chemical Company, as Lessee, supplementing the Master Lease Agreement dated as of August 20, 1987 between Whirlpool Acceptance Corporation, as Lessor, and The Dow Chemical Company, as Lessee. The amount and types of equipment covered include, but are not limited to, one hundred fifty (150) ACF Model 5800LT Center Flow Covered Hopper Cars, A.A.R. designation No. C214, bearing serial nos. DOWX 20200 (inclusive) through DOWX 20349 (inclusive), and one (1) locomotive, 1500 HP Model MP15T, A.A.R. designation No. D312, bearing serial no. 866139-1, together with all additions, accessions, replacements, products and proceeds. All right, title and interest of the Lessor in and to the Equipment Schedule has been assigned to Mellon Bank, N.A., pursuant to a Loan and Security Agreement dated as of August 20, 1987 between Whirlpool and Acceptance Corporation and Mellon Bank, N.A.

3. Loan and Security Agreements (as assignment). Type of Document: Assignment of Lease. Loan and Security Agreement, dated as of August 20, 1987, between Whirlpool Acceptance Corporation, as assignor, whose principal place of business is at 553 Benson Road, Benton Harbor, Michigan 49022, and Mellon Bank, N.A., as assignee, whose principal place of business is at One Mellon Bank Center, Pittsburgh, Pennsylvania 15258, covering, among other things, all right, title and interest of Whirlpool Acceptance Corporation to all that certain Master Lease Agreement dated as of August 20, 1987 between Whirlpool Acceptance

REED SMITH SHAW & McCLAY

Secretary, Interstate Commerce
Commission

-4-

August 24, 1987

Corporation, as Lessor, and The Dow Chemical Company, as Lessee, as amended, modified or supplemented from time to time heretofore or hereafter, and all Equipment Schedules thereto from time to time entered into heretofore or hereafter.

4. Loan and Security Agreement (as mortgage). Type of Document: Mortgage. Loan and Security Agreement, dated as of August 20, 1987 between Whirlpool Acceptance Corporation, as mortgagor, and Mellon Bank, N.A., as mortgagee. The amount and types of equipment covered include, but are not limited to, equipment and other personal property specified in the Master Lease Agreement dated August 20, 1987 between Whirlpool Acceptance Corporation and The Dow Chemical Company, as amended, modified or supplemented from time to time heretofore or hereafter, including all Equipment Schedules thereto, and including but not limited to certain railroad cars, locomotives and other railroad rolling stock and other property intended for use relating to interstate commerce, or interests therein, owned by Whirlpool Acceptance Corporation at the date of said Master Lease Agreement or thereafter acquired by it, and including but not limited to one hundred fifty (150) ACF Model 5800LT Center Flow Covered Hopper Cars, A.A.R. designation No. C214, bearing serial nos. DOWX 20200 (inclusive) through DOWX 20349 (inclusive), and one (1) locomotive, 1500 HP Model MP15T, A.A.R. designation No. D312, bearing serial no. 866139-1, together with all additions, accessions, replacements, products and proceeds.

A filing fee of \$30.00 is enclosed. Please return a file-stamped copy of each of the above three documents, and any copies not needed by the Commission, to Kenneth C. Kettering, Esq., Reed Smith Shaw & McClay, P.O. Box 2009, Pittsburgh, Pennsylvania 15230.

Very truly yours,

REED SMITH SHAW & McCLAY

By *Kenneth C. Kettering*
Kenneth C. Kettering

HAND DELIVERED

**EXECUTED
COPY**

1 5298 / B

RECORDATION NO. _____ Filed 1225

AUG 26 1987 -2 40 PM

INTERSTATE COMMERCE COMMISSION

LOAN AND SECURITY AGREEMENT

Between

WHIRLPOOL ACCEPTANCE CORPORATION

as Lessor

and

MELLON BANK, N.A.

as Lender

Dated as of August 20, 1987

**Assigning Leases of
Certain Railroad Rolling Stock**

with

The Dow Chemical Company

**ICC OFFICE OF
THE SECRETARY
AUG 26 2 38 PM '87
MOTOR OPERATING UNIT**

LOAN AND SECURITY AGREEMENT

LOAN AND SECURITY AGREEMENT dated as of August 20, 1987, between WHIRLPOOL ACCEPTANCE CORPORATION, a Delaware corporation (the "Lessor"), as borrower, and MELLON BANK, N.A., a national banking association (the "Lender"), as lender.

W I T N E S S E T H:

WHEREAS, the Lessor has requested the Lender to make Initial Loans to the Lessor in order to finance the acquisition in a single transaction by the Lessor of personal property consisting of a 150 railroad cars and one locomotive (as will be more fully described in the Equipment Schedule referred to herein), and such property will be leased to The Dow Chemical Company, a Delaware corporation (the "Lessee"), pursuant to a Master Lease Agreement dated as of August 20, 1987 between the Lessor and the Lessee (as amended, modified or supplemented from time to time hereafter, the "Lease"); and

WHEREAS, the Lessor has requested the Lender to make Rollover Loans at the maturity of the Initial Loans described in the preceding paragraph, and at the maturity of the Rollover Loans described in this paragraph, to refinance such preceding Loans; and

WHEREAS, the Loans will be evidenced by a secured promissory note of the Lessor (the "Note") in the form of Exhibit A hereto; and

WHEREAS, in order to induce the Lender to make the Loans, the Lessor has agreed to assign to the Lender the Lease, the Equipment Schedule, and certain other agreements and instruments, and to grant a security interest in the Equipment (as defined below) to the Lender, all as collateral security for the payment and performance of the indebtedness, obligations and liabilities arising out of the Note and this Agreement; and

WHEREAS, among other conditions precedent to the obligation of the Lender to make the Loans is a condition precedent that the Lessor shall have executed and delivered to the Lender this Agreement; and

WHEREAS, the Lessor, the Lender and the Lessee are parties to a Participation Agreement dated as of August 20, 1987, (as amended, modified or supplemented from time to time, the "Participation Agreement"), pursuant to which this Agreement is being executed and delivered and pursuant to which the transactions described above are being consummated.

NOW THEREFORE, in consideration of the premises and of the mutual covenants herein contained and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. Defined Terms. The following terms shall have the following meanings, unless the context otherwise requires (such terms to be equally applicable to both singular and plural forms of the terms defined):

"Agency Agreement" shall mean the Agency Agreement of even date herewith between the Lessee and the Lessor.

"Agreement," "hereof," "hereto," "hereunder," and words of similar import shall mean this Loan and Security Agreement, as the same may from time to time be amended, modified, or supplemented.

"Applicable Margin" shall have the meaning set forth in Section 2.5(f) hereof.

"As-Offered Rate" and "As-Offered Rate Option" shall have the meanings assigned to those terms in Section 2.5(a)(iv) hereof.

"As-Offered Rate Loan" shall mean any Loan bearing interest at any time under the As-Offered Rate Option or at a rate calculated by reference to the As-Offered Rate Option under Section 2.5(d)(iii) hereof. If no As-Offered Rate Loan is specified, "As-Offered Rate Loan" shall refer to all As-Offered Rate Loans outstanding at such times.

"As-Offered Rate Maturity Period" shall have the meaning assigned to that term in Section 2.5(b) hereof.

"Assessment Rate" shall have the meaning assigned to that term in Section 2.5(a)(ii) hereof.

"Assigned Contracts" shall mean, collectively, the Lease, the Equipment Schedule, the Purchase Agreement, the Lessee Bill of Sale, and any Purchase Contracts, Manufacturer Bills of Sale and any other or similar agreements, documents or instruments pertaining to or arising from the acquisition of Equipment by the Lessor from time to time, in each case whether now existing or hereafter arising or entered into.

"Assigned Contracts" does not include the Participation Agreement, the Tax Indemnity Agreement or the Agency Agreement.

"Business Day" shall mean any day other than a Saturday, Sunday, public holiday under the laws of the Commonwealth of Pennsylvania or other day on which banking institutions are authorized or obligated to close in Pittsburgh, Pennsylvania.

"CD Rate" and "CD Rate Option" shall have the meanings assigned to those terms in Section 2.5(a)(ii) hereof.

"CD Rate Loan" shall mean any Loan bearing interest at any time under the CD Rate Option or at a rate calculated by reference to the CD Rate under Section 2.5(d)(iii) hereof. If no CD Rate Loan is specified, "CD Rate Loan" shall refer to all CD Rate Loans outstanding at such time.

"CD Rate Maturity Period" shall have the meaning assigned to that term in Section 2.5(b) hereof.

"Closing" shall mean each closing hereunder to be held on a Closing Date.

"Closing Date" shall mean the date under this Agreement on which Lessor shall advance a portion of Lessor's Commitment and Lender shall advance a portion of Lender's Commitment in respect of the Equipment, which is anticipated to be August 24, 1987. No more than one Closing Date shall occur under this Agreement, and in no event may the Closing Date occur after September 30, 1987.

"Code" shall mean the Uniform Commercial Code as the same may from time to time be in effect in any applicable jurisdiction.

"Collateral" shall have the meaning set forth in Section 3.1 of this Agreement.

"Corresponding Source of Funds" shall mean:

- (i) in the case of any CD Rate Loan, the proceeds of hypothetical issuances by the Lender of one or more certificates of deposit of the Lender at the beginning of the corresponding CD Rate Maturity Period, having maturities approximately equal to such CD Rate Maturity Period and in an aggregate amount approximately equal to the then outstanding principal amount of such CD Rate Loan; and
- (ii) in the case of any Euro-Rate Loan, the proceeds of hypothetical receipts by a Notional Euro-Rate Funding Office or by the Lender through a Notional Euro-Rate Funding Office of one or more dollar deposits in the interbank eurodollar market at the beginning of the corresponding Euro-Rate Maturity Period, having maturities approximately equal to such Euro-Rate Maturity Period and in an aggregate amount approximately equal to such Euro-Rate Loan.

"Equipment" shall have the meaning given that term in the Lease.

"ERISA" shall mean the Employee Income Retirement Security Act of 1974, as amended, and regulations thereunder.

"Euro-Rate" and "Euro-Rate Option" shall have the meanings assigned to those terms in Section 2.5(a)(iii) hereof.

"Euro-Rate Loan" shall mean any Loan bearing interest at any time under the Euro-Rate Option or at a rate calculated by reference to the Euro-Rate under Section 2.5(d)(iii) hereof. If no Euro-Rate Loan is specified, "Euro-Rate Loan" shall refer to all Euro-Rate Loans outstanding at such time.

"Euro-Rate Maturity Period" shall have the meaning assigned to that term in Section 2.5(b) hereof.

"Equipment Schedule" shall mean the Equipment Schedule entered into in substantially the form attached as Exhibit A to the Lease, duly completed and with such amendments as may be satisfactory to the Lender in its sole discretion, as the same may from time to time be amended, modified or supplemented.

"Event of Default" shall mean any of the events specified in Section 6 of this Agreement, provided that there has been satisfied any requirement specified in such Section 6 for the giving of notice, the lapse of time, or the happening of any further condition, event or act; and "Default" shall mean any of such events whether or not any such requirement has been satisfied.

"Event of Loss" shall mean a damage to the Equipment with respect to which Lessee has made the election described in Section 12.1(b)(y) of the Lease.

"Excepted Payments" shall mean any sums paid or owing to the Lessor by the Lessee: (i) under the Participation Agreement, the Agency Agreement, the Tax Indemnity Agreement or Section 7.2 of the Lease, or (ii) so long as no Default or Event of Default has occurred and is continuing hereunder and so long as neither the Lessee nor the Lessor owes any other sums to the Lender, any sums paid or owing to the Lessor by the Lessee in respect of advances made by Lessor on behalf of Lessee.

"Expiration Date" for the Note shall have the meaning set forth in the Note.

"Initial Loans" shall have the meaning set forth in Section 2.1(a) hereof.

"Law" shall mean any law (including common law), constitution, statute, treaty, regulation, rule, ordinance, order, injunction, writ, decree or award of any Official Body.

"Lease" shall have the meaning given that term in the introductory statement to this Agreement.

"Lease Event of Default" shall mean any "Event of Default" under and as defined in the Lease.

"Lender" shall mean Mellon Bank, N.A., as set forth in the introductory statement to this Agreement.

"Lender's Commitment" shall mean an aggregate amount equal to 75.859714% of Lessor's Cost of the Equipment, which Commitment shall not exceed \$5,870,320.90.

"Lessee" shall mean The Dow Chemical Company, a Delaware corporation, as set forth in the introductory statement to this Agreement.

"Lessee Bill of Sale" shall mean the Bill of Sale (now existing or hereafter entered into) in substantially the form attached as Exhibit A to Exhibit G to the Lease, duly completed and with such amendments as may be satisfactory to the Lender in its sole discretion, as the same may from time to time be amended, modified or supplemented.

"Lessor" shall mean Whirlpool Acceptance Corporation, as set forth in the introductory statement to this Agreement.

"Lessor's Commitment" shall mean an aggregate amount equal to 24.140286% of the Lessor's Cost of the Equipment, which Commitment shall not exceed \$1,868,069.60.

"Lessor's Cost" shall mean, with respect to the Equipment, the total amount paid by the Lessor for the Equipment, which amount shall be set forth in the Equipment Schedule pertaining to the Equipment. If the Lessor acquires such Equipment from the Lessee, rather than from the Manufacturer, the Lessor's Cost for each such item of Equipment shall not exceed the price paid by the Lessee to the Manufacturer for such item of Equipment. Lessor's Cost shall be separately set forth for each item of Equipment.

"Lien" shall mean any mortgage, pledge, lien, security interest, assignment, charge, encumbrance, financing statement, title retention or any other right or claim of any person.

"Loan Ceiling" for any Note shall have the meaning set forth in Section 2.3 hereof.

"Loans" shall mean Initial Loans and Rollover Loans.

"London Business Day" shall mean a day for dealings in dollars among banks in the London interbank market.

"Loss Payment Date" as to an Event of Loss shall mean the Rent Payment Date (as defined in the Lease) next following such Event of Loss.

"Manufacturer" shall mean a person who sells Equipment to the Lessor or the Lessee, as the case may be.

"Manufacturer Bill of Sale" shall mean any bill of sale given by a Manufacturer in connection with an acquisition of Equipment, in each case whether now existing or hereafter entered into, as the same may from time to time be amended, modified or supplemented.

"Maturity Date" and "Maturity Period" shall have the meanings assigned to those terms in Section 2.5(b) hereof.

"month", with respect to a Euro-Rate Maturity Period, means the interval between the Euro-Convention Dates in consecutive calendar months as to such Euro-Rate Maturity Period. The "Euro-Convention Date" in a calendar month at the end of any Euro-Rate Maturity Period shall mean the day in such calendar month numerically corresponding to the first day of such Euro-Rate Maturity Period, except (i) if there is no such numerically corresponding day in a calendar month, the "Euro-Convention Date" for such calendar month shall mean the last London Business Day of such calendar month, (ii) if the first day of such Euro-Rate Maturity Period is the last day of a calendar month, the "Euro-Convention Date" for any later calendar month and (iii) otherwise, if a numerically corresponding day in a given calendar month is not a London Business day, the "Euro-Convention Date" for such calendar month shall mean the next following day that is a London Business Day, but not later than the last London Business Day of such calendar month.

"Note" shall mean the Nonrecourse Promissory Note of the Lessor in the form of Exhibit A hereto executed in favor of the Lender and delivered to the Lender in connection with the Loans, and any substitute, extension, replacement or subdivision thereof or therefor.

"Obligations" shall mean the unpaid principal amount of, and accrued interest on, the Note, and all other obligations and liabilities of the Lessor or the Lessee to the Lender, for payment or performance, now existing or hereafter incurred, joint or several, contingent or absolute, matured or unmatured, otherwise secured or unsecured, under, arising out of or in connection with this Agreement, the Note, the Assigned Contracts or the Participation Agreement.

"Official Body" shall mean any government or political subdivision or any agency, authority, bureau, central bank, commission, department or instrumentality of either, or any court,

tribunal, grand jury or arbitrator, in each case whether foreign or domestic.

"Option" and "Options" shall mean the Prime Rate Option, the CD Rate Option, the Euro-Rate Option or the As-Offered Rate Option, as the case may be.

"Participation Agreement" shall have the meaning set forth in the recitals hereto.

"Prime Rate" and "Prime Rate Option" shall have the meanings assigned to those terms in Section 2.5(a)(i) hereof.

"Prime Rate Loan" shall mean at any time any Loan bearing interest at such time (i) under the Prime Rate Option other than in accordance with the first sentence of Section 2.5(d) hereof or (ii) under the first sentence of Section 2.5(d) hereof. If no Prime Rate Loan is specified, "Prime Rate Loan" shall refer to all Prime Rate Loans outstanding at such time.

"Prime Rate Maturity Period" shall have the meaning assigned to that term in Section 2.5(d) hereof.

"Proceeds" shall have the meaning assigned to it in the Pennsylvania Uniform Commercial Code, and in any event shall include but not be limited to (i) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to the Lessor from time to time with respect to any of the Collateral, (ii) any and all payments (in any form whatsoever) made or due and payable to the Lessor from time to time in connection with any requisition, confiscation, condemnation, seizure, or forfeiture of all or any part of the Collateral by any governmental body, authority, bureau, or agency or any other person (whether or not acting under color of governmental authority) and (iii) any and all other amounts from time to time paid or payable under or in connection with any of the Collateral; provided, however, that any payment made in respect of Excepted Payments shall not be included in the meaning of such term.

"Purchase Agreement" shall mean any Purchase Agreement (now existing or hereafter entered into) in substantially the form attached as Exhibit G to the Lease, duly completed and with such amendments as may be satisfactory to the Lender in its sole discretion, as the same may from time to time be amended, modified or supplemented.

"Purchase Contracts" shall mean any purchase agreements or purchase contracts or related agreements entered into by the Lessor or the Lessee with Manufacturers in connection with an acquisition of Equipment, including any Manufacturer Bill of Sale, in each case whether now existing or hereafter entered into, as the same may from time to time be amended, modified or supplemented.

"Ratable Portion of Lessor's Cost" as to any item of Equipment at any time shall mean the ratio of the original Lessor's Cost to such item of Equipment to the total Lessor's Cost of all items of Equipment purchased by the Lessor in connection with the corresponding Closing. If such item of Equipment is a replacement item, the Ratable Portion of Lessor's Cost for such item will be deemed to be the same as the Ratable Portion of the Lessor's Cost of the original item so replaced.

"Rollover Loans" with respect to the set of Initial Loans made on the Closing Date shall mean: (a) any Loan or Loans made on the Maturity Date of any such Initial Loan or Initial Loans, with the aggregate principal amount of such Rollover Loans being less than or equal to the aggregate principal amount of such preceding Loan or Loans, and (b) any Loan or Loans made on the Maturity Date of any Rollover Loan or Rollover Loans previously made with respect to such set of Initial Loans, with the aggregate principal amount of such Rollover Loans being less than or equal to the aggregate principal amount of such preceding Loan or Loans.

"Standard Notice" shall mean an irrevocable notice provided to the Lender on a Business Day which is

- (i) at least one Business Day in advance in the case of selection of the Prime Rate Option or the As-Offered Rate Option or prepayment of any Prime Rate Loan;
- (ii) at least two Business Days in advance in the case of selection of the CD Rate Option; and
- (iii) at least three London Business Days in advance for selection of the Euro-Rate Option.

Standard Notice must be provided no later than 10:00 o'clock a.m., Pittsburgh time, on the last day permitted for such notice.

"Tax Indemnity Agreement" shall mean the Tax Indemnity Agreement of even date herewith by and between the Lessor and the Lessee.

Section 2. Amount and Term of Loans.

2.1 The Loans. (a) Subject to the terms and conditions of this Agreement and relying upon the representations and warranties contained herein, the Lender agrees to make one or more Loans to the Lessor on the Closing Date (such Loans made on the Closing Date being herein referred to as the set of "Initial Loans") in an aggregate principal amount not to exceed the Lender's Commitment. The obligation of the Lender to make Initial Loans hereunder shall terminate on the Lender's close of business, September 30, 1987. Subject to the terms and conditions of this Agreement, on the Closing Date (i) Lessor will participate in the

payment of Lessor's Cost or portion thereof of any item of Equipment to be settled for on such Closing Date in an amount equal to the Lessor's Commitment with respect to such Lessor's Cost or portion thereof, making such amount available in immediately available funds at the Closing site (or as the parties may otherwise agree) and (ii) Lender will participate in the payment of such Lessor's Cost or portion thereof by making one or more Initial Loans to Lessor in aggregate principal amount equal to the Lender's Commitment with respect to such Lessor's Cost or portion thereof, making such amount available in immediately available funds at the Closing site (or as the parties may otherwise agree). Subject to the terms and conditions of this Agreement, on the Closing Date the Lessor will purchase the Equipment to be settled for on such Closing Date for an amount equal to the Lessor's Cost thereof and will lease the same to the Lessee as of such Closing Date pursuant to the Lease. The Lessor shall give Lender at least three Business Days' prior written notice of each proposed Closing Date, setting forth the information required by Section 2.4 hereof. The Closing shall take place at the offices of Reed Smith Shaw & McClay, counsel to Lender, at 435 Sixth Avenue, Pittsburgh, Pennsylvania 15219.

(b) Subject to the terms and conditions of this Agreement and relying upon the representations contained herein, the Lender agrees to make Rollover Loans with respect to each set of Initial Loans from but not including the Closing Date to but not including the corresponding Expiration Date.

2.2 The Note. The obligations of the Lessor to repay the unpaid principal amount of the set of Initial Loans made to it on the Closing Date, the unpaid principal amount of all Rollover Loans with respect to such set of Initial Loans, and to pay interest on the foregoing, shall be evidenced in part by a single promissory Note of the Lessor dated such Closing Date in substantially the form set forth in Exhibit A hereto. The executed Note shall be delivered by the Lessor to the Lender on the Closing Date. The unpaid principal amount of each Note, the unpaid interest accrued thereon, the interest rate or rates applicable to such unpaid principal amount and the duration of such applicability shall at all times be ascertained from the records of Lender (as certified from time to time to the Lessor at Lessor's reasonable written request), which shall be conclusive absent manifest error.

2.3 Amortization of the Facility. At no time shall the aggregate principal amount of Loans outstanding with respect to the Note exceed the Loan Ceiling with respect to the Note at such time. The Lender shall have no obligation to make Rollover Loans with respect to the Note to the extent the making of such Rollover Loans would cause the aggregate principal amount of Loans outstanding to exceed the Loan Ceiling with respect to the Note. The "Loan Ceiling" with respect to the Note initially shall mean the aggregate principal amount of the Initial Loans made on the

Closing Date corresponding to the Note (the "Initial Ceiling"), reduced as follows:

(a) on each Mandatory Reduction Date shown on Schedule A to the Note the Loan Ceiling with respect to the Note shall be reduced by the corresponding Mandatory Reduction Amount shown on such Schedule A; and

(b) in addition, if at any time any Loans with respect to the Note are paid or prepaid for any reason (voluntarily or involuntarily, pursuant to Section 2.10, 2.11 or otherwise), or if on any day Rollover Loans are made with respect to the Note in a lesser aggregate principal amount than the aggregate principal amount of the Loans maturing on such day with respect to the Note (except to the extent such difference results from a reduction in the Loan Ceiling with respect to the Note pursuant to clause (i) above), then the Loan Ceiling with respect to the Note shall on such date be reduced by the amount of such prepayment or the difference between the aggregate principal amount of such maturing Loans and the aggregate principal amount of such Rollover Loans, as the case may be.

Once reduced, the Loan Ceiling for the Note may not be increased. If on any day the outstanding principal amount of the Loans shall exceed the Loan Ceiling with respect to the Note as reduced on such day, the Lessor shall pay or prepay (subject, among other things, to Section 2.7 hereof) Loan in principal amount sufficient to reduce the principal amount of outstanding Loans with respect to the Note to such reduced Loan Ceiling with respect to the Note, and such principal amount of the Note shall be immediately due and payable, together with accrued interest thereon. On the Expiration Date with respect to the Note, the entire outstanding principal amount of the Note shall be due and payable, together with accrued interest thereon.

2.4 Making of Loans. (a) If the Lessor desires that the Lender make a Loan, the Lessor or its agent shall provide Standard Notice to the Bank setting forth the following information:

(i) The date, which shall be a Business Day, on which such Loan is to be made;

(ii) The interest rate Option applicable to such Loan, selected in accordance with Section 2.5(a) hereof;

(iii) The Maturity Period for such Loan, selected in accordance with Section 2.5(b) hereof; and

(iv) The principal amount of such Loan, selected in accordance with Section 2.5(c) hereof.

Standard Notice having been so provided and subject to the terms and conditions hereof, on the date specified in such notice the Lender shall (i) if the Loan is a Rollover Loan, apply the proceeds to payment of the principal amount of the predecessor Loan(s) and (ii) if the Loan is an Initial Loan, make the proceeds thereof available to the Lessor as set forth in Section 2.1 hereof.

(b) Unless the Lessor or its agent gives express contrary notice to the Lender by 10:00 a.m., Pittsburgh time, on the Business Day before the Maturity Date of a Loan, the Lessor shall be deemed to have given the Lender notice at such time, with the same effect as if an express notice had been given, requesting that a Rollover Loan be made with respect to each such maturing Loan at the Prime Rate Option.

2.5 Interest Rates. (a) Optional Basis of Borrowing. The unpaid principal amount of each Loan shall bear interest for each day until due on one of the bases selected by the Lessor from among the interest rate Options set forth below, it being understood that subject to the provisions of this Agreement the Lessor may select different Options to apply to different Loans; provided, however, that the total number of Loans outstanding with respect to any one Note shall not exceed four; and further provided, that the Lessor shall have no right to select any Option other than the Prime Rate Option if a Default or an Event of Default shall have occurred and be continuing or shall exist:

(i) Prime Rate Option: A rate per annum (computed on the basis of a year of 360 days and actual days elapsed) for each day equal to the Prime Rate for such day plus the Applicable Margin for such day, such interest rate to change automatically from time to time effective as of the effective date of each change in the Prime Rate. "Prime Rate", as used herein, shall mean the interest rate per annum announced from time to time by Lender as its prime rate.

(ii) CD Rate Option: A rate per annum (based on a year of 360 days and actual days elapsed) for each day equal to the CD Rate for such day plus the Applicable Margin for such day. "CD Rate" for any day, as used herein, shall mean with respect to any proposed or existing CD Rate Loan corresponding to a CD Rate Maturity Period the rate per annum determined by Lender by adding

(A) the rate per annum obtained by dividing (the resulting quotient to be rounded upward to the nearest 1/100 of 1%) (1) the rate of interest (which shall be the same for each day in such CD Rate Maturity Period) determined in good faith by Lender in accordance with its usual procedures (which determination shall be conclusive) to be the average of the secondary market bid rates at or about 11:00 o'clock a.m., Eastern Time,

on the first day of such CD Rate Maturity Period by dealers of recognized standing in negotiable certificates of deposit for the purchase at face value of negotiable certificates of deposit of major money center banks for delivery on such day in amounts comparable to the principal amount of such CD Rate Loan and having maturities comparable to such CD Rate Maturity Period by (2) a number equal to 1.00 minus the CD Rate Reserve Percentage and

(B) the Assessment Rate.

The "CD Rate" described in this Section 2.5(a)(ii) may also be expressed by the following formula:

$$\text{CD Rate} = \frac{\begin{array}{l} \text{[average of the secondary market} \\ \text{[bid rates estimated by Lender per} \\ \text{[subsection (ii)(A)(1) of this} \\ \text{[Section 2.5(a)} \end{array}}{\begin{array}{l} \text{]} \\ \text{]} \\ \text{]} \\ \text{]} \end{array}} + \text{Assessment Rate} \\ \text{[1.00 - CD Rate Reserve Percentage} \quad \text{]} \end{array}$$

The "CD Rate Reserve Percentage" for any day is the maximum effective percentage (expressed as a decimal fraction, rounded upward to the nearest 1/100 of 1%), as determined in good faith by Lender (which determination shall be conclusive absent manifest error, and which shall be certified from time to time to the Lessor at the reasonable written request of the Lessor or its agent), which is in effect on such day as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the reserve requirements (including without limitation supplemental, marginal and emergency reserve requirements) for the Lender in respect of nonpersonal time deposits in Dollars in the United States. The CD Rate shall be adjusted automatically during any CD Rate Maturity Period on the effective date of any change in the CD Rate Reserve Percentage, as of such effective date.

The "Assessment Rate" for any day is the rate per annum (rounded upward to the nearest 1/100 of 1%) determined in good faith by Lender in accordance with its usual procedures (which determination shall be conclusive absent manifest error, and which shall be certified from time to time to the Lessor at the reasonable written request of the Lessor or its agent) to be the maximum effective assessment rate per annum payable by a bank insured by the Federal Deposit Insurance Corporation (or any successor) for such day for insurance on Dollar time deposits, exclusive of any credit allowed against such annual assessment on account of assessment payments made or to be made by such bank. The CD Rate shall be adjusted automatically during any CD Rate Maturity Period on the effective date of each change in the Assessment Rate, as of such effective date.

Lender shall give prompt notice to Lessor of the CD Rate so determined or adjusted, which determination or adjustment shall be conclusive if made in good faith.

(iii) Euro-Rate Option: A rate per annum (based on a year of 360 days and actual days elapsed) for each day equal to the Euro-Rate for such day plus the Applicable Margin for such day. "Euro-Rate" for any day, as used herein, shall mean with respect to any proposed or existing Euro-Rate Loan corresponding to a Euro-Rate Maturity Period the rate per annum (which shall be the same for each day in such Euro-Rate Maturity Period) determined in good faith by Lender in accordance with its usual procedures (which determination shall be conclusive) to be the average of the rates per annum for deposits in Dollars offered to major money center banks in the London interbank market at approximately 11:00 o'clock a.m., London time, two London Business Days prior to the first day of such Euro-Rate Maturity Period for delivery on the first day of such Euro-Rate Maturity Period in amounts comparable to the principal amount of such Euro-Rate Loan and having maturities comparable to such Euro-Rate Funding Period.

Lender shall give prompt notice to Lessor of the Euro-Rate so determined or adjusted, which determination or adjustment shall be conclusive if made in good faith.

(iv) As-Offered Rate Option. A rate per annum (the "As-Offered Rate") offered by the Bank in its sole discretion for such As-Offered Rate Maturity Period and for such amount as the Lender shall offer from time to time in its sole discretion, which rate shall remain fixed for the duration of such As-Offered Rate Maturity Period.

(b) Maturity Periods. At any time when Lessor shall request the Lender to make a Loan, the Lender shall specify the term of such Loan (the "Maturity Period" of such Loan), as set forth in the chart below (unless the chart below states only one possible Maturity Period for such Loan, in which case no specification is necessary):

Type of Loan

Available Maturity Periods

Prime Rate Loan

The shorter of (a) 90 days and (b) the Mandatory Reduction Date with respect to the Note next following the date on which such Prime Rate Loan is made ("Prime Rate Maturity Period");

CD Rate Loan

30, 60, 90, 180, 270 or 360 days or, subject to

availability, any period less than 360 days ending on a Mandatory Reduction Date with respect to the Note ("CD Rate Maturity Period");

Euro-Rate Loan

One, two, three, four, five, six, nine or twelve months or, subject to availability, any period less than twelve months ending on a Mandatory Reduction Date with respect to the Note ("Euro-Rate Maturity Period");

As-Offered Rate Option

Such periods as the Lender shall offer in its sole discretion from time to time ("As-Offered Rate Maturity Period");

provided, that:

(i) Each Prime Rate Maturity Period, CD Rate Maturity Period or As-Offered Rate Maturity Period which would otherwise end on a day which is not a Business Day shall be extended to the next succeeding Business Day;

(ii) Each Euro-Rate Maturity Period shall begin on a London Business Day, and the duration of each Euro-Rate Maturity Period shall be determined in accordance with the definition of the term "month" herein;

(iii) The Lessor may not select a Maturity Period for a Loan that would end after the Expiration Date; and

(iv) The Lessor shall, in selecting any CD Rate Maturity Period, Euro-Rate Maturity Period or As-Offered Maturity Period, allow for the reductions in the Loan Ceiling imposed by Section 2.3 hereof and the resulting payments due on each Mandatory Reduction Date.

Unless due earlier under the terms hereof or the applicable Notes, each Loan shall be due and payable on the last day of the Maturity Period corresponding thereto (the "Maturity Date" therefor).

(c) Transactional Amounts. Every request for a Loan and every prepayment of a Loan shall be in a principal amount such that after giving effect thereto the principal amount of each such Loan shall be as set forth in the table below:

Type of Loan

Allowable Principal Amounts

Prime Rate Loan

Not less than \$100,000, except that a Rollover Loan may be in any principal amount.

CD Rate Loan

Not less than \$500,000.

Euro-Rate Loan

Not less than \$1,000,000.

As-Offered Rate Loan

As allowed by the Lender from time to time in its sole discretion.

(d) Interest After Maturity. After any principal amount of a Prime Rate Loan shall have become due (by acceleration or otherwise), such principal amount of such Loan shall bear interest for each day until paid (before and after judgment) at a rate per annum (based on a year of 360 days and actual days elapsed) which shall be the greater of (i) 2% above the Prime Rate Option on the day such principal amount of such Loan shall have become due and (ii) 2% above the then current Prime Rate Option, such interest rate to change automatically from time to time effective as of the effective date of each change in the Prime Rate. After any principal amount of a CD Rate Loan, a Euro-Rate Loan or an As-Offered Rate Loan shall have become due (by acceleration or otherwise), such principal amount of such Loan shall bear interest for each day until paid (before and after judgment) (iii) until the end of the applicable then current Maturity Period at a rate per annum 2% above the rate otherwise applicable to such principal amount of such Loan and (iv) thereafter in accordance with the previous sentence.

(e) CD Rate or Euro-Rate Unascertainable; Impracticability. If

(i) on any date on which a CD Rate or a Euro-Rate would otherwise be set Lender shall have in good faith determined (which determination shall be conclusive) that:

(A) adequate and reasonable means do not exist for ascertaining such CD Rate or Euro-Rate, or

(B) a contingency has occurred which materially and adversely affects the secondary market for negotiable certificates of deposit maintained by dealers of recognized standing or the interbank eurodollar market, as the case may be, or

(C) the effective cost to Lender of funding a proposed CD Rate Loan or Euro-Rate Loan from a Corresponding Source of Funds shall exceed the CD Rate

or Euro-Rate, as the case may be, applicable to such Loan, or

(ii) at any time Lender shall have determined in good faith (which determination shall be conclusive, and which shall be certified in writing to the Lessor at the reasonable request of the Lessor or its agent) that the making, maintenance or funding of any CD Rate Loan or Euro-Rate Loan has been made impracticable or unlawful by compliance by Lender or a Notional Euro-Rate Funding Office in good faith with any Law or guideline or interpretation or administration thereof by any Official Body charged with the interpretation or administration thereof or with any request or directive of any such Official Body (whether or not having the force of law);

then, and in any such event, Lender may notify Lessor of such determination. Upon such date as shall be specified in such notice (which shall not be earlier than the date such notice is given) the CD Rate Option or Euro-Rate Option, as the case may be, shall cease to apply, and all CD Rate Loans or Euro-Rate Loans, as the case may be, shall be due and payable. Absent contrary notice from the Lessor by 10:00 a.m., Pittsburgh time, on the Business Day before such date (whether or not it is possible to have given such notice), the Lessor shall be deemed to have requested the Lender, with the same effect as if an express notice had been given, to make a Rollover Loan at the Prime Rate Option with respect to each such maturing Loan.

If at the time Lender makes a determination under subsection (i) or (ii) of this Section 2.5(e) Lessor has previously notified Lender that it wishes to select the CD Rate Option or Euro-Rate Option, as the case may be, with respect to any proposed Loan, but such Loan has not yet been made, such notification shall be deemed to provide for selection of the Prime Rate Option instead of the CD Rate Option or Euro-Rate Option, as the case may be, with respect to such Loan.

(f) Applicable Margin. "Applicable Margin" for any day during any Margin Year (which term shall mean the period from and including any June 15 to but not including the next following June 15) from and after the Margin Year beginning June 15, 1987 shall mean the amount determined as follows:

(i) If such Margin Year is a Grace Margin Year, the Applicable Margin for each day during such Margin Year shall be: for purposes of determining the Prime Rate Option, zero; for purposes of determining the CD Rate Option, $\frac{3}{8}$ of 1%; and for purposes of determining the Euro-Rate Option, $\frac{3}{8}$ of 1%.

(ii) If such Margin Year is not a Grace Margin Year, the Applicable Margin for each day during such Margin Year shall be determined as follows:

Margin Year beginning
June 15 of

Applicable Margin for purposes
of determining:

	<u>Prime Rate Option</u>	<u>CD Rate Option</u>	<u>Euro-Rate Option</u>
1987, 1988 and 1989	Zero	3/8 of 1%	3/8 of 1%
1990 and 1991	Special (see clause (iii) below)		
1992 and 1993	Zero	7/8 of 1%	7/8 of 1%
1994, 1995 and 1996	Zero	1%	1%
1997, 1998 and 1999	1-1/2%	3%	3%
Later Margin Years	2-1/2%	4%	4%

(iii) (A) Each of the two Margin Years beginning June 15, 1990 and June 15, 1991, respectively, shall be referred to herein as a "Special Margin Year." The Applicable Margin for a Special Margin Year shall be the Expected Special Margin unless, pursuant to clause (B) of this Section 2.5(f)(iii), the Applicable Margin for such Special Margin Year is determined to be the Alternative Special Margin. "Expected Special Margin" and the "Alternative Special Margin" shall have the meanings set forth in the following table:

Applicable Margin for purposes
of determining:

	<u>Prime Rate Option</u>	<u>CD Rate Option</u>	<u>Euro-Rate Option</u>
Expected Special Margin	Zero	3/8 of 1%	3/8 of 1%
Alternative Special Margin	Zero	5/8 of 1%	5/8 of 1%

(B) The Lender may designate the Applicable Margin for a Special Margin Year to be the Alternative Special Margin if any one of the following conditions is met:

(I) At any time from and including January 1 to and including March 15 preceding the commencement of such Special Margin Year a Lease Event of Default, as defined in the Lease, or event or condition which, with the giving of notice or the passage of time or both, would constitute such a Lease Event of Default, shall have occurred and be continuing or shall exist.

(II) The Lender shall have requested the Lessee in writing at any time from and including such January 1 to and including such March 15 to certify as to the matters

stated in clause (I) above, and the Lender shall fail to have received from the Lessee within five days after such request a certificate of the Lessee, addressed to each of the Lessor and the Lender, dated as of a date not more than five days before the receipt of such certificate by the Lender, signed on behalf of the Lessee by its Treasurer, Assistant Treasurer or any Vice President, to substantially the following effect:

"Reference is hereby made to the Loan and Security Agreement dated as of August 20, 1987 between Whirlpool Acceptance Corporation and Mellon Bank, N.A., as amended, modified or supplemented from time to time, and the related Master Lease Agreement dated as of August 20, 1987 between Whirlpool Acceptance Corporation, as Lessor, and The Dow Chemical Company, as Lessee, as amended, modified or supplemented from time to time. Pursuant to Section 2.5(f)(iii)(B) of such Loan and Security Agreement, the undersigned hereby certifies on behalf of The Dow Chemical Company that no Event of Default, as defined in such Master Lease Agreement, and no event or condition which, with the giving of notice or the passage of time or both, would constitute such an Event of Default, has occurred under such Master Lease Agreement."

(III) The Lender determines that at any time during the Margin Year preceding the Margin Year to be designated the Special Margin Year at least one of the following two conditions exists: (x) no unsecured long-term obligations of the Lessee are rated by Standard & Poor's Corporation or (y) unsecured long-term obligations of the Lessee are not generally rated "A-" or better by Standard & Poor's Corporation.

(C) If any of the conditions set forth in clause (B) is met (the Lender's determination being conclusive is made in good faith), the Lender may, in its sole discretion, designate the Applicable Margin for such Special Margin Year to be the Alternative Special Margin by giving written notice to the Lessor (with copies to the Lessee) no later than March 15 preceding the commencement of such Special Margin Year to substantially the following effect:

"Reference is hereby made to the Loan and Security Agreement dated as of August 20, 1987 between Whirlpool Acceptance Corporation and Mellon Bank, N.A., as amended, modified or supplemented from time to time, and the related Master Lease Agreement dated as of August 20, 1987 between Whirlpool Acceptance Corporation, as Lessor, and The Dow Chemical Company, as Lessee, as amended,

modified or supplemented from time to time. Pursuant to Section 2.5(f)(iii)(C) of such Loan and Security Agreement, Mellon Bank, N.A., as Lender, hereby gives notice that the Applicable Margin for the Special Margin Year beginning on June 15 of [fill in year] shall be the Alternative Special Margin. Accordingly, the Applicable Margin for each day from and including such date to but not including the next following June 15 shall be: for purposes of determining the Prime Rate Option, zero; for purposes of determining the CD Rate Option, 5/8 of 1%; and for purposes of determining the Euro-Rate Option, 5/8 of 1%."

(iv) No Margin Year before the Margin Year beginning June 15, 1992 may be a Grace Margin Year. Each Margin Year from and including the Margin Year beginning June 15, 1992 shall be deemed a Grace Margin Year unless the Lender in its sole and absolute discretion gives written notice to the Lessor (with copy to the Lessee) not later than the March 15 preceding the commencement of such Margin Year to substantially the following effect:

"Reference is hereby made to the Loan and Security Agreement dated as of August 20, 1987 between Whirlpool Acceptance Corporation and Mellon Bank, N.A., as amended, modified or supplemented from time to time, and the related Master Lease Agreement dated as of August 20, 1987 between Whirlpool Acceptance Corporation, as Lessor, and The Dow Chemical Company, as Lessee, as amended, modified or supplemented from time to time. Pursuant to Section 2.5(f)(iv) of such Loan and Security Agreement, Mellon Bank, N.A. hereby gives notice that the Margin Year beginning on June 15 of [fill in year] shall not be a Grace Margin Year for determining the Applicable Margin.

"Accordingly, for purposes of information only, the Applicable Margin for each day during the period from and including such date to but not including the next following June 15 shall be: for purposes of determining the Prime Rate Option, [fill in Applicable Margin determined per clause (ii)]; for purposes of determining the CD Rate Option, [fill in Applicable Margin determined per clause (ii)]; and for purposes of determining the Euro-Rate Option, [fill in Applicable Margin determined per clause (ii)].

"The preceding paragraph is for information only, and the Loan and Security Agreement shall control if there is any inconsistency between the

definition of "Applicable Margin" contained therein and the information contained in the preceding paragraph."

2.6 Interest Payment Dates. Accrued interest on each Loan shall be due and payable (a) on each January 15, April 15, July 15 and October 15, commencing January 15, 1988 (or, if such day is not a Business Day, on the next following Business Day) and (b) on the last day of the corresponding Maturity Period. After maturity of any Loan or any part thereof (by acceleration or otherwise), interest on such Loan or part thereof shall be due and payable on demand.

2.7 Additional Compensation in Certain Circumstances.

(a) Increased Cost or Reduced Return Resulting From Taxes, Reserves and Expenses on Outstanding Loans, Capital Adequacy Requirements, etc. If any Law or guideline or interpretation or application thereof by any Official Body charged with the interpretation or administration thereof or compliance with any request or directive of any central bank or other Official Body (whether or not having the force of law):

(i) subjects Lender or any Notional Euro-Rate Funding Office to any tax or changes the basis of taxation with respect to this Agreement, the Note, the Loans or payments by Lessor of principal, interest, or other amounts due from Lessor hereunder or under the Note (except for taxes on the overall net income of Lender or such Notional Euro-Rate Funding Office imposed by the jurisdiction in which Lender's principal executive office or Notional Euro-Rate Funding Office is located),

(ii) imposes, modifies or deems applicable any reserve, special deposit or similar requirement against assets held by, credit extended by, deposits with or for the account of, or other acquisition of funds by, the Lender or any Notional Euro-Rate Funding Office (other than requirements expressly included herein in the determination of the CD Rate or the Euro-Rate, as the case may be, hereunder),

(iii) imposes, modifies or deems applicable any capital adequacy or similar requirement (A) against assets (funded or contingent) of, or credits or commitments to extend credit extended by, the Lender or its Notional Euro-Rate Funding Office, or (B) otherwise applicable to the obligations of the Lender or its Notional Euro-Rate Funding Office under this Agreement, or

(iv) imposes upon Lender or any Notional Euro-Rate Funding Office any other condition or expense with respect to this Agreement, the Note, the Lease, any Equipment Supplement

or its making, maintenance or funding of any Loan or any security therefor,

and the result of any of the foregoing is to increase the cost to, reduce the income receivable by, or impose any expense (including loss of margin) upon the Lender or any Notional Euro-Rate Funding Office with respect to this Agreement, the Note or the making, maintenance or funding of any Loan (or, in the case of any capital adequacy or similar requirement, to have the effect of reducing the rate of return on the Lender's capital, taking into account the Lender's policies with respect to capital adequacy) by an amount which Lender deems to be material (Lender being deemed for this purpose to have made, maintained or funded any CD Rate Loan or Euro-Rate Loan from a Corresponding Source of Funds), Lender shall from time to time notify Lessor of the amount determined in good faith (using any averaging and attribution methods employed in good faith) by Lender to be necessary to compensate Lender or such Notional Euro-Rate Funding Office for such increase in cost, reduction in income or additional expense. Such amount shall be due and payable by Lessor to Lender ten Business Days after such notice is given. A certificate by the Lender as to such amount and the method of calculation thereof shall be conclusive absent manifest error. To the extent the Lender receives a rebate of any such increase in cost, reduction in income or incurred expense for which the Lender was reimbursed by the Lessor under this Section 2.7(a), the Lender will refund such amount to the Lessor.

(b) Euro-Rate Reserve Requirements. Without limiting the generality of Section 2.7(a) hereof, if the Lender incurs reserve requirements with respect to any of its eurocurrency funding (currently referred to in Regulation D promulgated by the Board of Governors of the Federal Reserve System as "Eurocurrency liabilities") at a time when a Euro-Rate Loan is outstanding, (the period during which such conditions obtain being referred to as a "Euro-Reserve Period"), then the Lessor shall pay to the Lender, as a reserve reimbursement pursuant to Section 2.7(a), for each day during such Euro-Reserve Period and for each Euro-Rate Loan outstanding on each such day, an amount equal to (i) $1/360$, times (ii) the principal amount of such Euro-Rate Loan outstanding on such day, times (iii) the percentage equal to (A) the quotient annum determined by dividing the Euro-Rate applicable to such Euro-Rate Loan by a number equal to 1.00 minus the Euro-Rate Reserve Percentage for such day, minus (B) such Euro-Rate. As used herein, the term "Euro-Rate Reserve Percentage" for any day is the maximum marginal percentage (rounded upward to the nearest $1/100$ of 1%), as determined in good faith by the Lender (which determination shall be conclusive absent manifest error), which is in effect on such day as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the reserve requirements (including, without limitation, supplemental, marginal and emergency reserve requirements) with respect to eurocurrency funding of the Lender. The Lender shall at the

Lessor's reasonable request from time to time certify the current Euro-Rate Reserve Percentage to the Lessor.

(c) Indemnity. In addition to the compensation required by Section 2.7(a) hereof, Lessor shall indemnify Lender against any loss or expense (including loss of margin) which Lender has sustained or incurred as a consequence of any

(i) payment or prepayment of any CD Rate Loan, Euro-Rate Loan or As-Offered Rate Loan in whole or in part on a day other than the last day of the corresponding Maturity Period (whether or not such payment or prepayment is mandatory or automatic and whether or not such payment or prepayment is then due),

(ii) attempt by Lessor to revoke (expressly, by later inconsistent notices or otherwise) in whole or part any notice stated herein to be irrevocable (Lender having in its sole discretion the options (A) to give effect to such attempted revocation and obtain indemnity under this Section 2.7(c) or (B) to treat such attempted revocation as having no force or effect, as if never made), or

(iii) default by Lessor in the performance or observance of any covenant or condition contained in this Agreement or the Note, including without limitation any failure of Lessor to pay when due (by acceleration or otherwise) any principal, interest or any other amount due hereunder or under the Note.

If Lender sustains or incurs any such loss or expense it shall from time to time notify Lessor of the amount determined in good faith by Lender (which determination shall be conclusive) to be necessary to indemnify Lender for such loss or expense. Such amount shall be due and payable by Lessor to Lender ten Business Days after such notice is given. A certificate by the Lender as to such amount and the method of calculation thereof shall be conclusive absent manifest error.

2.8 Funding by Branch, Subsidiary or Affiliate.

(a) Notional Funding. Lender shall have the right from time to time, prospectively or retrospectively, without notice to Lessor, to deem any branch, subsidiary or affiliate of Lender to have made, maintained or funded any part of any Euro-Rate Loan at any time. Any branch, subsidiary or affiliate so deemed shall be known as a "Notional Euro-Rate Funding Office". Notional Euro-Rate Funding Offices may be selected by Lender without regard to Lender's actual methods of making, maintaining or funding the Loans or any sources of funding actually used by or available to Lender.

(b) Actual Funding. Lender shall have the right from time to time during which a Euro-Rate Loan is outstanding to make

or maintain such Euro-Rate Loan by arranging for a branch, subsidiary or affiliate of Lender to make or maintain such Euro-Rate Loan. Lender shall have the right to (i) hold the corresponding Note payable to its order for the benefit and account of such branch, subsidiary or affiliate or (ii) request Lessor to issue one or more promissory notes in substantially the form attached hereto as Exhibit A with the blanks appropriately filled, payable to such branch, subsidiary or affiliate. The Lender shall not cause any such branch, subsidiary or affiliate to make or maintain such Loan if such action would cause an increase in the amount that would be payable under Section 2.5 hereof but for such proposed action. Lessor agrees to comply promptly with any request under subsection (ii) of this Section 2.8(b). If Lender causes a branch, subsidiary or affiliate to make or maintain any part of a Loan hereunder, all terms and conditions of this Agreement shall, except where the context clearly requires otherwise, be applicable to such Loan and to any note payable to the order of such branch, subsidiary or affiliate to the same extent as if the Loan were made or maintained and such note were a Note to Lender's order.

2.9 Exchange. If any Note shall become mutilated, destroyed, lost or stolen, Lessor shall, upon the written request of the holder of such Note, execute and deliver to such holder, in replacement thereof, a new Note in the same face amount and dated the same date as the Note so mutilated, destroyed, lost or stolen. If the Note being replaced has become mutilated, such Note shall be surrendered to Lessor. If the Note being replaced has been destroyed, lost or stolen, the holder of such Note shall furnish to Lessor such security or indemnity as may be required by it to save it harmless and evidence satisfactory to the Lessor of the destruction, loss or theft of such Note and the ownership thereof; provided, however, that if the holder of such Note is the Lender, the unsecured written undertaking of such holder delivered to Lessor shall be sufficient security and indemnity.

2.10 Prepayments; Failure to Refinance. (a) Except as expressly provided herein, the Lessor shall not have the right to prepay any Loans. The Lessor shall have the right at its option from time to time to prepay any Prime Rate Loan in whole or part without premium or penalty.

(b) Whenever the Lessor desires (x) to prepay any Loan, or (y) to pay any Loan on its Maturity Date other than by the making of Rollover Loans (except payments on the Expiration Date or payments on applicable Mandatory Reduction Dates to the extent required by Section 2.3(a) hereof), it shall provide two Business Days' notice to the Lender (with a copy to the Lessee) setting forth the following information:

(i) The date, which shall be a Business Day, on which the proposed prepayment is to be made;

(ii) The total principal amount of such payment or prepayment, selected in accordance with Section 2.5(c) hereof; and

(iii) Identifying the Loan to be so prepaid, specifying its interest rate Option and Maturity Date.

On the date specified in such notice the principal amounts of the Loan specified in such notice, together with interest on each such principal amount to such date, shall be due and payable.

2.11 Mandatory Payment of Loans in Certain Circumstances. If an Event of Loss occurs as to any item of Equipment and the Lessee does not replace such item of Equipment pursuant to Section 12 of the Lease by the corresponding Loss Payment Date, or if the Equipment Schedule is terminated in part as to any item of Equipment (pursuant to Section 13 thereof or for any other reason), then there shall be due and payable on the corresponding Loss Payment Date or termination date, as the case may be: (i) a principal amount of the Loans evidenced by the Note equal to the outstanding principal amount of all Loans on such Loss Payment Date or termination date, as the case may be, times the Ratable Portion of Lessor's Cost as to such item of Equipment, together with (ii) accrued interest to such Loss Payment Date or termination date, as the case may be, and any indemnity owing pursuant to Section 2.7 hereof. If the Equipment Schedule is terminated in whole for any reason, then there shall be due any payable on the date of termination the outstanding principal amount of the Note, together with accrued interest to the date of such termination date, any indemnity owing pursuant to Section 2.7 hereof, and all other amounts owing hereunder or under the Note. Upon payment of the amounts called for by this Section 2.11 the Lender shall, at the request of the Lessor, release from the Lien of this Agreement the item of Equipment as to which such Event of Loss or termination occurred.

2.12 Payments. All payments and prepayments to be made by the Lessor hereunder shall be payable not later than 2:00 p.m., Pittsburgh time, on the day when due without presentment, demand, protest or notice of any kind (except to the extent notice or demand by the Lender is expressly required hereby), all or which are hereby expressly waived, and an action therefor shall immediately accrue. Such payments shall be made to the Lender at its Office in U.S. dollars in funds immediately available at such Office without set-off, counterclaim or other deduction of any nature, except only that the principal amount of any Loan actually made by the Lessor to the Lender may be set-off against the principal amount of any Loan made by the Lender to the Lessor hereunder on such day. To the extent permitted by law, after there shall have become due (by acceleration or otherwise) principal, interest or any other amount from the Lessor hereunder (except overdue principal, which shall bear interest as set forth in Section 2.5(d) hereof), such amount shall bear interest for

each day until paid (before and after judgment), payable on demand, at a rate per annum (based on a year of 360 days and actual days elapsed) which shall be 2% above the Prime Rate Option.

2.13 Application of Required Principal Payments to Particular Loans Evidenced by a Note. Subject to the provisions of Section 2.7(c) hereof, installments of principal due or payable on the Note on a specified day shall be applied to the outstanding Loans as follows:

(a) first, to Loans the Maturity Dates of which are on or before such day,

(b) second, to Prime Rate Loans the Maturity Date of which is after such day,

(c) last, to CD Rate Loans, Euro-Rate Loans or As- Offered Rate Loans the Maturity Date of which is after such day.

Within the priorities stated above the Lessor may, by notice to the Lender (which notice shall be irrevocable) no later than the date and time an installment of principal is due designate the amount of each Loan to which such installment shall be applied. Absent such notice the Lessor may make such designation at any time, effective as of the date such installment of principal is due, within the priorities stated above. The Lender shall notify the Lessor of any such designation by the Lender.

Section 3. Grant of Security Interest.

3.1 Grant of Security. In order to secure the prompt payment and performance of the Obligations, Lessor has granted, conveyed, pledged, sold, mortgaged, assigned, transferred and set over a security interest and does hereby grant, convey, pledge, sell, mortgage, assign, transfer and set over a security interest, unto Lender and its successors and assigns in (i) all estate, right, title and interest of Lessor in and to the Equipment whether now owned or hereafter acquired (including without limitation all estate, right, title and interest of Lessor as a secured party or lienholder under the Lease to the extent a security interest or lien may be deemed to be created by the Lease and all of Lessor's reversionary rights and interests in and to the Equipment); (ii) all estate, right, title and interest of Lessor in and to the equipment, substitute equipment, accessories and replacement and added parts which may now or hereafter be placed on or installed in the Equipment; (iii) all proceeds from the sale, exchange, loss or other disposition of the Equipment, and any and all other Proceeds of any of the Collateral; (iv) all rights, claims and causes of action, if any, which Lessor may have against any manufacturer or supplier of the Equipment or any other party, by contract or otherwise, in respect of any defect in the

Equipment; and (v) the Assigned Contracts, together with all of Lessor's estate, right, title, interest, claim and demand in, to and under the Assigned Contracts, including, without limitation, (A) the right to receive notices and give consents under the Assigned Contracts, to terminate the Assigned Contracts or to exercise or enforce any and all covenants, remedies, powers, and privileges thereunder, and (B) all rent, damages and other moneys from time to time payable to or receivable by Lessor under the Assigned Contracts, including, without limitation, all rights and claims of the Lessor, now or hereafter existing, (I) under all insurance policies, indemnities, warranties and guarantees provided for or arising out of or in connection with any of the Assigned Contracts or the Collateral, (II) for any damages arising out of or for breach or default under or in connection with any of the Assigned Contracts, (III) to all other amounts from time to time paid or payable under or in connection with the Assigned Contracts; but excluding, however, Excepted Payments; and the foregoing including any and all amendments, supplements, extensions and renewals of any of the Assigned Contracts (all of the foregoing described in items (i) through (v) above being hereinafter sometimes collectively called the "Collateral"), to have and to hold all and every part of the Collateral unto Lender, and its successors and assigns, for its and their own use and benefit forever;

PROVIDED, HOWEVER, and these presents are on the condition that, if Lessor, or its successors or assigns, or Lessee shall pay and perform or cause to be paid or performed all of the Obligations in accordance with their terms, as provided in this Agreement, the Participation Agreement, the Note and the Assigned Contracts, and shall well and faithfully perform and observe, or cause to be performed and observed, all of the agreements, covenants and provisions herein and therein at the time and in the manner specified, then all rights herein assigned to said Lender shall cease and terminate, all estate, right, title and interest of Lender in and to the Collateral shall revert to Lessor, and this Agreement and rights and powers granted herein and hereby shall cease to be binding and shall be of no further force and effect.

3.2 It is expressly agreed that: (a) the Lessor shall at all times be and remain liable to observe and perform all of its duties and obligations under the Assigned Contracts to the same extent as if this Agreement had not been made, and the Lessor agrees to observe and perform the same, (b) the exercise by the Lender of any of the rights assigned hereunder shall not release the Lessor from any of its duties or obligations under the Assigned Contracts, (c) notwithstanding Section 3.5(a) hereof or any other provision hereof, the Lender shall not have any obligation or liability under the Assigned Contracts by reason of this Agreement or the receipt by the Lender of any payment or property under the Assigned Contracts pursuant hereto, nor shall the Lender be obligated to perform or fulfill any of the duties or

obligations of the Lessor under the Assigned Contracts or to make any payment thereunder, or to make any inquiry as to the nature or sufficiency of any payment or property received by it thereunder, or the sufficiency of performance by any party thereunder, or to present or file any claim, or to take any action to collect or enforce any performance or the payment of any amounts or the delivery of any property which may have been assigned to it or to which it may be entitled at any time or times. The making of such advance by Lender shall not, however, cure any Event of Default hereunder until the full amount of all such monies so advanced and such interest thereon shall have been repaid to Lender and such Event of Default shall have otherwise been cured.

3.3 (a) As more fully set forth in Section 3.1 hereof, the Lessor has assigned to the Lender, as collateral security for the Obligations, the Assigned Contracts and all rent and other amounts from time to time payable thereunder (other than Excepted Payments). All such assigned moneys (other than Excepted Payments) shall be paid directly to the Lender in immediately available funds by the Lessee and the Lessor shall so notify and direct the Lessee. If the Lessor shall at any time receive any such moneys it shall hold the same in trust for the Lender and promptly deliver such moneys to the Lender.

(b) The Lender shall hold all moneys received by it as part of the Collateral and shall apply such moneys as provided in this Agreement. If any default occurs in the making of any payment or performance hereunder or under any of the Assigned Contracts, the Lender may take such action as it may deem appropriate to enforce such payment or performance, including the institution and prosecution of appropriate proceedings. Any such action shall be without prejudice to any right to claim an Event of Default hereunder and to proceed thereafter as provided in Section 7 hereof.

3.4 In any suit, proceedings, or action brought by the Lender under any of the Assigned Contracts for any sum owing thereunder, or to enforce any provision of the Assigned Contracts, the Lessor will save, indemnify, and keep the Lender harmless from and against all expense, loss, or damage suffered by reason of any defense, set-off, counterclaim, recoupment, or reduction of liability whatsoever of the Lessee arising out of a breach by the Lessor of any obligation thereunder or arising out of any other agreement, indebtedness, or liability at any time owing to or in favor of the Lessee or any of its successors or assigns from the Lessor and all such obligations of the Lessor shall be and remain enforceable against and only against the Lessor, and shall not be enforceable against the Lender.

3.5 (a) The Lessor hereby irrevocably constitutes and appoints the Lender, its successors and assigns, and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full power and authority in the place

and stead of the Lessor, in the Lessor's name or otherwise, from time to time in the Lender's discretion, to demand, receive and sue for, and compromise and give releases for, any and all rents, rentals, profits, moneys and claims for money due and to become due under the Assigned Contracts (other than Excepted Payments) or in connection with the Collateral, to enforce compliance with the terms and conditions of the Assigned Contracts, to endorse any checks or other instruments in connection therewith, and to take any and all other appropriate action and to execute any and all documents and instruments which may be necessary or desirable or to accomplish the purpose of this Agreement or the Assigned Contracts, without notice to or assent by the Lessor. The Lessor hereby ratifies all that said attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable.

(b) The powers conferred on the Lender hereunder are conferred solely to protect its interest in the Collateral and shall not impose any duty upon it to exercise any such powers. The Lender shall be accountable only for amounts that it actually receives as a result of the exercise of such powers and neither it nor any of its officers, directors, employees, or agents shall be responsible to the Lessor for any act or failure to act, except for its gross negligence or willful misconduct. Beyond the safe custody thereof, the Lender shall not have any duty as to any Collateral in its possession or control or in the possession or control of its agents or nominees or any income thereon or as to the preservation of rights against prior parties or any other rights pertaining thereto.

(c) The Lessor also authorizes the Lender, at any time and from time to time, to execute, in connection with the sale provided for in Section 7 of this Agreement, any endorsements, assignments, bills of sale, or other instruments of conveyance or transfer with respect to the Collateral.

3.6 The security interests created and rights granted to Lender hereunder shall terminate when the Obligations shall have been paid and performed in full. The Lender will upon payment in full of the Obligations execute such termination or assignment statements and other documents as may be necessary to evidence the termination or assignment of such security interest.

Section 4. Application of Moneys. (a) Except as set forth in subsections (b) or (c) of this Section 4, all rents, and other amounts received by the Lender with respect to the Collateral will be applied by it as follows: first, to any fees, expenses or indemnities due hereunder and any other obligations of Lessor or Lessee to the Lender due under this Agreement, the Participation Agreement or the Lease not otherwise provided for in this Section 4; second, to interest due on the Note (whether by acceleration, mandatory payment or prepayment or otherwise); third, to installments of principal due on the Note (whether by

acceleration, mandatory payment or prepayment or otherwise); and fourth any excess to Lessor.

(b) So long as no Default or Event of Default shall have occurred and be continuing, if Lender receives any payments made by Lessee which Lessee designates to be in payment of an Excepted Payment to Lessor, then Lender will forward such payment promptly to the Lessor.

(c) Notwithstanding anything to the contrary contained in this Agreement, all amounts received by the Lender after a Default or an Event of Default shall have occurred and be continuing hereunder shall, at the sole option of the Lender, (i) be applied as intended pursuant to subsections (a) or (b) of this Section 4 hereof, or (ii) be held by the Lender as part of the Collateral, or (iii) after the occurrence of an Event of Default, be applied to the payment of the Obligations as provided in Section 7 hereof.

Section 5. Representations, Warranties and Agreements of the Lessor. The Lessor hereby represents and warrants and agrees that:

5.1 Due Organization, Power, and Authority of the Lessor. The Lessor is a corporation duly organized, validly existing, and in good standing under the laws of the State of Delaware. The Lessor has the necessary authority and power to purchase and to lease the Equipment and to transact the business in which it is engaged. The Lessor has full power, authority, and legal right to execute and deliver this Agreement, the Note, the Lease, the Equipment Schedule, the Participation Agreement and the other agreements and instruments contemplated hereby and thereby, to perform its obligations hereunder and thereunder, to borrow hereunder and to grant the Liens and security interests created by this Agreement.

5.2 No Consents Required. No consent of any other party and no consent, license, approval, or authorization of, exemption by, or registration or declaration with, the Interstate Commerce Commission or any other Official Body is required in connection with the execution, delivery, or performance by the Lessor of this Agreement, the Lease, the Equipment Schedule, the Note or the Participation Agreement, or the validity or enforceability of this Agreement, the Lease, the Equipment Schedule, the Note or the Participation Agreement as to the Lessor.

5.3 No Violations of Law or Contract. The execution, delivery, and performance by the Lessor of this Agreement, the Lease, the Equipment Schedule, the Note and the Participation Agreement do not and will not violate as of the Closing Date any provision of any applicable law or regulation, or of any judgment, award, order, writ, or decree of any court or governmental

instrumentality and will not violate any provision of or cause a default under the Lessor's Certificate of Incorporation or By-Laws or under any mortgage, indenture, contract, agreement, or other undertaking to which the Lessor is a party or which purports to be binding upon the Lessor or upon any of its assets, and will not result in the creation or imposition of any Lien on any of the Collateral (other than the rights of the Lessee under the Lease and the security interests of the Lender created under this Agreement).

5.4 Valid Authorization Hereof. This Agreement, the Lease and the Participation Agreement have each been duly authorized, executed, and delivered by the Lessor and each constitutes a legal, valid, and binding obligation of the Lessor enforceable as to Lessor in accordance with its terms. The Note, in the maximum aggregate principal amount of \$5,870,320.90, the Equipment Schedule, and the other transactions contemplated hereby and by the Lease have been duly authorized by Lessor, and, when the Note and the Equipment Schedule are respectively executed and delivered by Lessor, such Note and Equipment Schedule will constitute legal, valid and binding obligations of the Lessor enforceable in accordance with their terms.

5.5 No Suits Pending. There is no action, suit, investigation, or proceeding (whether or not purportedly on behalf of the Lessor) pending or threatened against or affecting the Lessor or any of its assets (a) which, to Lessor's knowledge after due inquiry, involves any of the Collateral or any of the transactions contemplated by this Agreement or (b) which, if adversely determined, would have a material adverse effect upon the transactions contemplated by this Agreement or a material adverse effect upon the financial condition, business, or operations of the Lessor.

5.6 The Lessor's Chief Place of Business. The chief place of business and the chief executive office of the Lessor is located at 553 Benson Road, Benton Harbor, Michigan 49022. The office where the Lessor keeps its records relating to the Equipment and the Assigned Contracts is 17177 North Laurel Park Drive, Suite 233, Livonia, Michigan 48152. The Lessor will not change the location of any such offices unless it has given the Lender 30 days' prior written notice thereof, specifically referring to this Agreement and this Section 5.6, and all filings necessary or desirable to maintain the security interest of the Lender have been made.

5.7 The Lessor's Continuing Legal Obligations. The Lessor will (a) duly observe and conform to all valid requirements of any governmental authorities which are required with respect to the performance of its obligations under this Agreement, the Assigned Contracts, the Note and the Participation Agreement, (b) maintain its existence as a legal entity and obtain and keep in full force and effect all franchises which are required with

respect to the performance of its obligations under this Agreement, the Assigned Contracts, the Note and the Participation Agreement, and (c) obtain or cause to be obtained as promptly as possible any governmental, administrative, or agency approval and make any filing or registration therewith which at the time shall be required with respect to the performance of its obligations under this Agreement, the Assigned Contracts, the Note and the Participation Agreement.

5.8 Observance of Lease Covenants. The Lessor will (a) duly observe and perform all covenants and obligations under the Assigned Contracts and (b) subject to Section 5.9 hereof, promptly take any and all action as may be necessary to enforce its rights under the Assigned Contracts.

5.9 No Declaration of Default. The Lessor represents and warrants that it has not, and covenants that it will not, declare a default under or exercise any remedies under any of the Assigned Contracts (except only suit to collect unpaid Excepted Payments) or enter into or permit any cancellation, termination, amendment, supplement, or modification of or waiver with respect to any of the Assigned Contracts or give any consent or approval as to any matter arising out of the Assigned Contracts. Any such attempted declaration, exercise, cancellation, termination, amendment, supplement, modification, waiver, or consent or approval shall be void and of no effect unless the Lessor shall have received the prior written consent thereto of the Lender.

5.10 Validity of the Lender's Security Interests. Lessor hereby represents, warrants and covenants that: (a) so long as any Note shall be outstanding hereunder, Lessor shall hold such title to the Collateral as will be conveyed to Lessor free and clear of all Liens created by, through or under Lessor (excepting the interest of the Lessee under the Lease and Liens which Lessee has agreed to pay or discharge in the Lease or in the Participation Agreement), (b) Lessor has not executed, and will not execute, any other assignment of any of the Assigned Contracts, and the Lessor has not as of the Closing Date received any advance rental payments under the Lease, (c) the Lien of the Lender in the Collateral shall remain at all times a valid and perfected first priority interest (subject to any Liens not created by, through or under Lessor), and (d) Lessor shall not cause anything to be done which may impair the value of the Collateral or the security interest therein intended to be granted hereby.

5.11 Notice of Default in Assigned Contracts. The Lessor will promptly give written notice to the Lender upon the Lessor's receipt of knowledge of (a) the occurrence of any Default or Event of Default, (b) the occurrence of any Event of Loss and (c) the commencement of any litigation or proceedings affecting the Collateral or that might materially interfere with the normal business operations of the Lessor. The Lessor will promptly

deliver to the Lender a copy of each communication received from any Lessee with respect to the transactions contemplated hereby or by the Assigned Contracts, unless such communication states that it has also been delivered to the Lender or unless the Lease specifically requires such communication to be delivered to the Lender. The Lessor has performed all obligations on its part to be performed under the Lease on or prior to the date hereof and, to the Lessor's knowledge after due inquiry, there has not occurred on or prior to the date hereof any Event of Default under the Lease or any event which, but for the lapse of time or the giving of notice or both, would be such an Event of Default under the Lease.

5.12 No Change in Lessor. The Lessor will not without the Lender's prior written consent, (a) enter into any transaction of merger or consolidation, or sell substantially all of its assets, (b) liquidate or dissolve, or (c) change the form of organization of its business; provided, however, the Lessor may be merged or consolidated into any other corporation which is a member of the consolidated group in which the Lessor is a member for federal tax purposes, and further provided, however, that a corporation may merge into the Lessor if the Lessor is the surviving corporation.

5.13 Regulatory Matters. (a) The proceeds of the Initial Loans shall be used by the Lessor to pay the Lessor's Cost of the Equipment, and no such proceeds will be used to purchase or carry "margin stock" as such term is used in Federal Reserve Regulations G, T, U and X.

(b) Neither Lessor, nor, to its knowledge, anyone acting on its behalf has directly or indirectly offered any Note or similar securities relating to the Equipment, for sale to, or solicited any offer to acquire any of the same from, anyone other than the Lender.

(c) Lessor's interest in the Equipment is being and will be acquired by Lessor with its general assets and no funds used to acquire such interest will be furnished directly or indirectly out of the assets of or in connection with any employee benefit plan (or its related trust), all as defined in ERISA.

5.14 Sole Original Counterpart of Lease. The Lessor has delivered to the Lender the only executed counterpart of the Lease which has been marked as "Lessor's Original" and the Lessor has caused each of the other executed counterparts of the Lease to be marked on the signature page thereof as a "Copy" counterpart.

5.15 Affixation of Notice. The Lessor shall use its best efforts to cause the Lessee to maintain on each item of Equipment a conspicuous notice disclosing the interest of the Lessor and the security interest of the Lender in such item of Equipment, in accordance with Section 11 of the Lease.

5.16 Further Assurances. The Lessor will promptly, at any time and from time to time, at its sole expense, execute and deliver to the Lender such further instruments and documents, as the Lender may from time to time reasonably request in order to further carry out the intent and purpose of this Agreement and the Assigned Contracts and to establish and protect the rights, interests, and remedies created, or intended to be created, in favor of the Lender hereby and thereby, including, without limitation, the execution, delivery, recordation, and filing of financing statements and continuation statements. The Lessor to the fullest extent permitted by law, hereby authorizes the Lender, to effect any such recordation or filing without the signature of the Lessor, and the Lessor will pay, or reimburse the Lender for, any and all fees, costs, and expenses of whatever kind or nature incurred in connection with the creation, preservation, and protection of the Lender's security interest in the Collateral, including, without limitation, all fees and taxes in connection with the recording or filing of instruments and documents in public offices, payment or discharge of any taxes or Liens upon or in respect of the Collateral, and all other fees, costs, and expenses in connection with protecting, maintaining, or preserving the Collateral and the Lender's interests therein, whether through judicial proceedings or otherwise, or in defending or prosecuting any actions, suits, and proceedings arising out of or related to the Collateral.

5.17 Financial Statements. Lessor will provide Lender with annual financial statements of Lessor within 90 days of the end of each fiscal year of Lessor upon Lender's written request therefor.

5.18 Inspection. Subject to Lessee's normal security and safety regulations and to the extent that Lessor can grant such right, Lender shall have at all reasonable times during normal business hours the right of access to the premises where the Equipment is located for the purpose of inspecting the Equipment and applicable maintenance records for, and records of hours of use of, the Equipment and observing its use and operation, and/or otherwise protecting the security interest created herein.

5.19 Disclaimer by Lender. Lender makes no representations or warranties whatsoever with respect to the Collateral or any part thereof, Lender shall not be chargeable with any obligations or liabilities of Lessor with respect thereto, and Lender shall have no liability or obligation arising out of any such claims, known or unknown, with respect to the Collateral.

5.20 Indemnity for Acts of Lessor. Lessor covenants and agrees with Lender that in any suit, proceeding or action brought or taken by Lender under any Assigned Contract for any installment of, or interest on, any rental or other sum owing

thereunder, or to enforce any provisions of such Assigned Contract, Lessor will save, indemnify and keep Lender harmless from and against all expense (including legal fees), loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of Lessee or its successors arising out of a breach by Lessor of any obligation under the Lease or the Equipment Schedule.

5.21 Notices. Lessor shall cause copies of all notices received or sent by it in connection with the Lease to be promptly delivered to Lender at Lender's address indicated in Section 10.2 hereto. Lender shall cause a copy of any counterclaim by Lessee, or its successors or assigns, against Lessor, in connection with any suit, action or proceeding by Lender against Lessee to be promptly delivered to Lessor.

Section 6. Default. The occurrence and continuation of any of the following events shall constitute an Event of Default hereunder:

(a) payment by the Lessor or the Lessee, as the case may be, of the principal of, or interest on, the Note, or any other amount owing pursuant to this Agreement, the Note or the Participation Agreement, shall not be made when due (whether at the stated maturity, by acceleration or otherwise) and such default shall continue unremedied for a period of seven days after the Lender shall have given the Lessor notice thereof; or

(b) the Lessor or the Lessee shall default in the due observance or performance of any covenant, condition, or provision contained herein, in the Note, in the Participation Agreement, or in any other agreement or instrument executed in connection herewith, and such default shall continue unremedied for more than 30 days after notice thereof has been given to the Lessor; or

(c) any representation or warranty made by the Lessor in this Agreement or the Lease or by the Lessor or the Lessee in the Lease or the Participation Agreement or by the Lessor or the Lessee in any document, certificate, or financial or other statement made pursuant to or in connection with this Agreement, the Lease or the Participation Agreement, shall not have been true and correct in all material respects as of the time when made; or

(d) this Agreement, the Note, the Participation Agreement or any of the Assigned Contracts shall at any time for any reason cease to be in full force and effect, or shall be declared to be null and void in whole or in part, or the validity or enforceability thereof shall be contested by the Lessor or the Lessee, or the Lessor or the Lessee shall renounce the same or deny that it has any further liability thereunder; or

(e) a proceeding shall have been instituted in a court having jurisdiction in the premises, seeking a decree or order (i) for relief in respect of Lessee or Lessor in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect or (ii) for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of the Lessee or Lessor or of their respective property, or (iii) for the winding up or liquidation of the affairs of Lessee or Lessor; and either (1) any such proceeding shall remain undismissed or unstayed and in effect for a period of 60 consecutive days or (2) such court shall enter a decree or order granting the relief sought in such proceeding; or

(f) the institution by the Lessor or the Lessee, of proceedings to be adjudicated a bankrupt or insolvent, or the consent by the Lessor or the Lessee to the institution of bankruptcy or insolvency proceedings against it or the commencement by the Lessor or the Lessee of a voluntary proceeding or case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency, or other similar law, or the consent by the Lessor or the Lessee to the filing of any such petition or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, or sequestrator (or other similar official) of the Lessor or the Lessee or of any substantial part of the property of either of them, or the making by the Lessor or the Lessee of any assignment for the benefit of creditors, or the admission by the Lessor or the Lessee of its inability to pay its debts generally as they become due or its willingness to be adjudicated a bankrupt, or the failure of the Lessor or the Lessee generally to pay its debts as they become due or the taking of corporate action by the Lessor or the Lessee in furtherance of any of the foregoing; or

(g) A Lease Event of Default shall have occurred (whether similar or dissimilar to any of the above).

Section 7. Effect of a Default.

7.1. Remedies. (a) Upon the occurrence of any Default and at any time thereafter so long as the same shall be continuing, but subject always to any mandatory requirements of applicable law then in effect, and further subject to the rights of the Lessee as provided in Section 7.8 hereof, Lender may, at its option, do any one or more or all of the following acts, as Lender in its sole and complete discretion may then elect:

(i) terminate forthwith its obligation to make Loans and/or, by written notice to Lessor declare the entire principal amount of the Note, accrued interest thereon, and all other amounts owing hereunder, to be due and payable forthwith, whereupon the Note and such amounts shall become due and payable, both as to principal and interest, without presentment, demand,

protest or other notice of any kind, all of which are hereby expressly waived, anything contained herein or in the Note to the contrary notwithstanding, but subject, nevertheless, at all times to the nonrecourse provisions of the Note;

(ii) exercise all rights and remedies of Lessor under the Assigned Contracts, and Lessor shall have no further rights thereunder (except to receive copies of all notices given and received thereunder and except as to the Excepted Payments) until the security interest granted under Section 3.1 hereof reverts to Lessor;

(iii) institute legal proceedings to foreclose upon and against the security interest granted herein;

(iv) institute legal proceedings for the sale, under the judgment or decree of any court of competent jurisdiction, of any of the Collateral;

(v) institute legal proceedings for the appointment of a receiver or receivers pending foreclosure hereunder or the sale of any of the Collateral under the order of a court of competent jurisdiction or under other legal process;

(vi) personally, or by agents or attorneys, enter into and upon any premises wherein the Collateral or any part thereof may then be located (to the extent the Lessor may grant such right), and take possession of all or any part thereof or render it unusable by Lessor, and, without being responsible for loss or damage (other than loss or damage caused by the gross negligence or willful misconduct of the Lender or its agents), hold, store and keep idle, or operate, lease or otherwise use or permit the use of the same or any part thereof for such time and upon such terms as Lender may determine in a commercially reasonable manner;

(vii) sell or dispose of all or any part of the Collateral, free from any and all claims of Lessor or of any other party claiming by, through or under Lessor at law, in equity or otherwise, at one or more public or private sales, in such place or places, at such time or times, in one or more parcels, for cash or on credit, for present or future delivery, and upon such terms as Lender may determine in a commercially reasonable manner with or without any previous demand on or notice to Lessor or advertisement of any such sale or other disposal except that to the extent required by law Lender shall provide Lessor with prior notice of any sale of the Collateral; and for the aforesaid purposes, all other notice of sale, advertisement and demand and any right or equity of redemption otherwise required by, or available to Lessor under, applicable law (but not Lessor's rights under this Agreement) are hereby waived by Lessor to the fullest extent permitted by applicable law; the power of sale hereunder shall not be exhausted by one or more sales, and Lender may from time to time adjourn any sale to be made hereunder;

(viii) demand, collect and retain all hire, earnings and all other sums due and to become due pursuant to subsections (vi) and (vii) of this Section 7.1(a) from any party whomsoever, accounting only for net proceeds arising after charging against all receipts from the use of and/or sale of the Collateral all unpaid Obligations and all other costs and expenses of, and damages or losses by reason of, such use and/or sale (including but not limited to maintenance, repairs, replacements, alterations, additions and improvements; all payments for taxes, assessments or insurance; and all reasonable attorneys' fees and legal expenses); and

(ix) exercise any other right, power, privilege or remedy which may be available to a secured party under the Pennsylvania Uniform Commercial Code or any other applicable law.

(b) Notice. If Lender is required by law to give prior notice to Lessor of any of the foregoing acts referred to in Section 7.1(a), Lessor hereby covenants and agrees that a notice sent to it in writing by certified mail, return receipt requested, at least ten (10) days before the date of any such act (or such longer period as may be required by applicable law) at its address provided on in Section 10.2 shall be deemed to be reasonable notice of such act and, specifically, reasonable notification of the time and place of any public sale hereunder and the time after which any private sale or other intended disposition is to be made hereunder.

(c) Application of Proceeds. The net proceeds from the sale of the Collateral pursuant to any of the provisions of this Section 7.1 shall be applied by Lender in the manner provided for in Section 4 hereof.

7.2 Right to Cure. (a) Anything herein to the contrary notwithstanding, in the case of any Default occurring hereunder due to the occurrence of a Lease Event of Default with respect to the failure of Lessee to pay Rent, or due to failure of Lessee to pay amounts due under the Participation Agreement, Lender shall not, without the prior written consent of Lessor, exercise any remedy or remedies provided herein or in the Lease in respect thereof during the ten (10) day period next following the date on which the Lender shall have given the Lessor notice of such Default. During such period, Lessor shall have the right to cure, on behalf of Lessee, such Default. Each such separate Default occurring subsequent to such a Default which was theretofore cured by Lessor shall be subject to the period during which Lender may not exercise its remedies as hereinabove; provided, however, that such grace period and right to cure shall not be allowed more than four times during the term of this Agreement or more than twice in succession.

(b) Notwithstanding subsection (a) of this Section 7.2, if a Default occurs hereunder due to Lessee's failure to pay

amounts under the Lease corresponding to amounts due pursuant to Section 2.7 hereof or interest thereon (the foregoing being referred to as "Section 2.7 Amounts"), Lender shall not, without the prior written consent of Lessor, exercise any remedy or remedies provided herein or in the Lease in respect thereof during the ninety (90) day period next following the date on which the Lender shall have given the Lessor notice of such Default. During such period, Lessor shall have the right to cure, on behalf of Lessee, such Default. Each separate failure to pay Section 2.7 Amounts occurring subsequent to such a previous failure to pay Section 2.7 Amounts shall be subject to the period during which Lender may not exercise its remedies as hereinabove. There shall be no limit on the number of times a failure to pay Section 2.7 Amounts may be so cured, and Defaults arising from such failure to pay Section 2.7 Amounts shall not be counted toward the limitations of time and number set forth in subsection (a) of this Section 7.2. The Lessor may, in curing any alleged Default arising from failure to pay Section 2.7 Amounts, pay under protest and reserve its right to contest by appropriate legal proceedings the amount of any Section 2.7 Amount allegedly due hereunder.

(c) No party exercising any right to cure pursuant to this Section 7.2 shall obtain any Lien of any kind upon the Equipment or any Collateral or any rentals or other amounts payable therefor under the Lease in respect of any sums paid in connection with the exercise of such right or the curing of such Default, nor shall any claims of such party against Lessee for the repayment of such sums so advanced impair the prior right of Lender to the sums payable by Lessee under the Lease; provided, however, that if no Default hereunder shall then have occurred and be continuing and if all Obligations then due and owing shall have been paid at the time of receipt by Lender from Lessee of an overdue installment of Basic Rent in respect of which Lessor shall have made payment to Lender pursuant to this Section 7.2 and/or any interest payable by Lessee in respect of the late payment thereof, such installment or other sum and interest thereon shall be released to or at the written direction of Lessor.

7.3 Right to Purchase the Notes. At any time while a Lease Event of Default shall have occurred and be continuing, Lessor may, on one Business Day's advance notice to the Lender, purchase the Note and the Lender's rights hereunder by paying or prepaying in immediately available funds the aggregate unpaid principal amount of the Note together with accrued interest thereon to the date of payment plus all other Obligations, matured or unmatured (including but not limited to Obligations arising under Section 2.7 hereof by virtue of such payment or prepayment). The Lessor may pay under protest and reserve its right to contest by appropriate legal proceedings the amount of any Obligations arising under Section 2.7 hereof by virtue of such payment or prepayment.

7.4 Waiver by Lessor. To the fullest extent that it may lawfully so agree, Lessor shall not at any time insist upon, claim, plead, or take any benefit or advantage of, any appraisement, valuation, stay, extension, moratorium, redemption or any similar law now or hereafter in force in order to prevent, delay or hinder the enforcement of this Agreement or the absolute sale of any part or all of the Collateral or the possession thereof by any purchaser at any sale pursuant to Section 7.1 above; and Lessor, for itself and all who may claim through it, as far as it or they now or hereafter lawfully may do so, hereby waives the benefit of all such laws and all right to have the Collateral marshaled upon any foreclosure hereof, and agrees that any court having jurisdiction to foreclose under this Agreement may order the sale of the Collateral as an entirety. To the fullest extent that it may lawfully so agree, the Lessor waives all claims, damages and demands against the Lender arising out of the repossession, retention or sale of the Collateral (except to the extent arising from the gross negligence or willful misconduct of the Lender or its agents).

7.5 Right to Purchase Collateral. At any sale pursuant to Section 7.1 hereof, Lender or its agent may, to the extent permitted by applicable law, bid for and purchase the Collateral offered for sale, may use any claim for Obligations then due and payable to it as a credit against the purchase price and, upon compliance in full with the terms of such sale, may hold, retain and dispose of such property without further accountability therefor to Lessor or any other party.

7.6 Cumulative Rights. Each right, power and remedy herein specifically granted to Lender or otherwise available to it shall be cumulative, and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or otherwise; and each right, power and remedy, whether specifically granted herein or otherwise existing, may be exercised, at any time and from time to time, as often and in such order as may be deemed expedient by Lender in its sole and complete discretion; and the exercise or commencement of exercise of any right, power or remedy shall not be construed as a waiver of the right to exercise, at the same time or thereafter, the same or any other right, power or remedy. No delay or omission by Lender in exercising any such right or power, or in pursuing any such remedy, shall impair any such right, power or remedy or be construed to be a waiver of any default on the part of Lessor or an acquiescence therein. No waiver by Lender of any breach or default of or by Lessor under this Agreement shall be deemed to be a waiver of any other or similar, previous or subsequent breach or default.

7.7 Rights Under Lease. Notwithstanding anything to the contrary contained herein, the exercise of all rights and remedies of the Lender under this Section 7 shall at all times be subject to the rights of the Lessee to use the Equipment under the

terms of the Lease so long as no Lease Event of Default shall have occurred and be continuing.

7.8 Other.

(a) The Lessor also agrees to pay all costs of the Lender, including attorneys' fees, incurred with respect to the collection of any of the Obligations and the enforcement of any of its respective rights hereunder.

(b) In case the Lender shall have instituted any proceeding to enforce any right, power or remedy under this Agreement by foreclosure, re-entry or otherwise, and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Lender, then and in every such case the Lender shall, subject to any determination in such proceeding, be restored to its former position and rights hereunder with respect to the Collateral, and all rights, powers and remedies of the Lender shall continue as if no such proceeding had been instituted. The Lender may, at its election, waive any Event of Default and its consequences and rescind and annul any notice relating thereto by notice to the Lessor to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such Event of Default had occurred and no such notice relating thereto had been made or given.

Section 8. Non-Recourse Nature of Obligations.

Except as set forth below, and notwithstanding any provisions to the contrary elsewhere in this Agreement, no recourse shall be had against the Lessor personally or against any incorporator, shareholder, officer or director of the Lessor with respect to any of the obligations created by this Agreement or the Note, it being understood that the Lessor's obligations pursuant to the Note and hereunder are enforceable only against the Collateral. Notwithstanding the above, the Lessor shall be and remain personally liable to the Lender with respect to any loss or damage to Lender (a) on account of Lessor's representations, warranties and agreements set forth in Section 3.3(a), Section 3.4, Section 5 (other than the agreements set forth in Section 5.10(c) and in the last sentence of Section 5.16, for which no recourse shall be had against the Lessor except for claims resulting from affirmative actions taken by the Lessor), and Section 10.3, and (b) on account of any representation, warranty, or agreement made in any document or certificate relating to the transactions contemplated hereby (unless such representation, warranty or agreement is expressly made non-recourse). For purposes of the preceding clause 8(b), this Agreement shall not itself be deemed a "document relating to the transactions contemplated hereby"; but nothing in such clause 8(b) or this Section 8 shall be deemed to limit the Lessor's personal liability as set forth in the preceding clause 8(a). Nothing contained in

this Section 8 shall limit the right of the Lender to seek injunctive or other equitable relief with respect to any of the Lessor's obligations.

Section 9. Conditions of Rollover Lending. The obligation of the Lender to make Rollover Loans hereunder is subject to the accuracy as of the date hereof of the representations and warranties herein contained, to the performance by the Lessor of its obligations to be performed hereunder and under the Participation Agreement on or before the date of each such Rollover Loan and to the satisfaction of the following further conditions: The representations and warranties contained in Section 5.1, 5.2, 5.3 and 5.4 hereof shall be true and correct on and as of the date of each Rollover Loan hereunder with the same effect as though such representations and warranties had been made on and as of such date; and on each such date no Default or Event of Default shall have occurred and be continuing or shall exist. Each request for a Rollover Loan hereunder, or deemed request for a Rollover Loan hereunder, shall be deemed a representation and warranty that the preceding sentence is and will be true and correct as of the date of such request and as of the date such Rollover Loan is made. All legal details and proceedings in connection herewith shall be satisfactory to the Lender, and the Lender shall have received such certificates, instruments and documents as it may from time to time request.

Section 10. Miscellaneous.

10.1 No Waiver; Cumulative Remedies. No failure or delay on the part of the Lender in exercising any right, power or privilege hereunder or under the Note shall operate as a waiver thereof, nor shall any single partial exercise of any right, power, or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power, or privilege. The rights and remedies herein and therein provided are cumulative and not exclusive of any rights or remedies provided by law.

10.2 Notices. All notices, requests and demands to or upon any party hereto shall be in writing (including telexed or telecopies communications), shall be sent by first-class or first-class express mail, telex, telecopy or personal delivery, shall be effective upon the earlier of receipt or three days after being mailed and shall be addressed to such party as follows, or to such other address as may be hereafter designated in writing by such party to the other party hereto:

The Lessor: Whirlpool Acceptance Corporation
c/o Whirlpool Leasing Services, Inc.
17177 North Laurel Park Drive
Livonia, Michigan 48152
Attention: Leveraged Lease Administrator
Telecopier: 313-464-9698

The Lender: Mellon Bank, N.A.
Three Mellon Bank Center
Room 2310
Pittsburgh, PA 15258

Attention: Loan Administration

Reference: Dow Chemical
Telex: 812 367
Answerback: MBANK
Telecopier: 412-234-5049

10.3 Performance by the Lender of the Lessor's Obligations. If the Lessor fails to perform or comply with any of its agreements contained herein or in the Assigned Contracts and the Lender shall itself perform or comply, or otherwise cause performance or compliance, with such agreement, the expenses of the Lender incurred in connection with such performance or compliance, together with interest thereon at the Prime Rate Option, shall be payable by the Lessor to the Lender on demand and until such payment such expenses shall constitute Obligations secured hereby, which Obligations shall bear interest after such demand at the rate specified for overdue installment payments in Section 2.12 hereof, until paid in full.

10.4 Survival of Representations and Warranties. All representations and warranties made in this Agreement and any certificates delivered in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loan, and the agreements contained herein shall survive payments of the Note.

10.5 Amendments. Neither this Agreement, nor any terms hereof, may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which enforcement of a change, waiver, discharge or termination is sought.

10.6 Counterparts. This Agreement may be executed by the parties hereto on any number of separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

10.7 Headings. The headings of the Sections and paragraphs are for convenience only, are not part of this Agreement and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

10.8 Successors or Assigns. This Agreement shall be binding upon and inure to the benefit of the Lessor and the Lender and their respective successors and assigns. The Lessor may not assign or transfer its rights hereunder or any interest herein

without the prior written consent of the Lender. The Lender agrees to consent to the transfer of the Lessor's interest hereunder to any corporation which is a member of the consolidated group in which the Lessor is a member for federal income tax purposes, so long as the Lender receives an agreement by such transferee reasonably satisfactory to the Lender to comply with all the terms and conditions of this Agreement, the Note, the Lease, the Equipment Schedule and the Participation Agreement and receives any UCC financing statements or other documents deemed advisable by the Lender with respect to the Lender's security interest in the Collateral. To the fullest extent permitted by law, the Lender may assign or grant participations in this Agreement, the Note, any Loan contemplated hereby or the Participation Agreement without notice to or the consent of the Lessor, and to the extent of any such assignment the assignee shall have the same rights hereunder or thereunder as the Lender has.

10.9 Construction. This Agreement and the Notes shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Pennsylvania.

10.10 Notices by Lessee. The parties acknowledge that the Lessor has appointed the Lessee, its officers and employees, in certain circumstances as the Lessor's agent and attorney-in-fact for the purpose of giving all notices permitted or required to be given by the Lessor hereunder pertaining to Section 2 hereof. The Lender shall be fully protected in relying upon any such notice (or deemed notice arising from failure to act) given or believed by the Lender to be given by the Lessee, its officers or employees, whether before or after the occurrence of an Event of Default or a Lease Event of Default, without any duty to inquire as to the authority or continuing authority of the Lessee or such person; provided, however, that in the event inconsistent notices are given by the Lessor and the Lessee, the Lessor's notice shall be deemed controlling (regardless of whether any such notice by the Lessor is in violation of any agreement between the Lessor and the Lessee, or any other circumstance).

10.11 Lender's Obligations. Nothing herein or in the Lease shall be construed as requiring the Lender to make any loan or extend any credit, except and to the extent specifically provided herein with respect to the Lender's obligation to make Rollover Loans. Without limitation, neither any renewal of a lease pursuant to Section 3.2 of the Lease nor any obligation to the Lessor to finance accessions or additions pursuant to Section 8.1 or 8.4 of the Lease shall obligate the Lender to make any loan, extend any credit, extend the maturity of any obligations

due hereunder or under the Note, or otherwise to finance or participate in the financing of such renewal, accession or addition.

IN WITNESS WHEREOF, the Lessor and the Lender have executed this Agreement as of the date first set forth above.

WHIRLPOOL ACCEPTANCE CORPORATION

By:

James J. Sings

Title:

VICE PRESIDENT

MELLON BANK, N.A.

By:

Paul A. Bruggd

Title:

Vice President

State of Michigan)
) ss:
County of Wayne)

On this 21st day of August, 1987, before me, personally appeared James W. Biddinger, to me personally known, who being by me duly sworn, says that he is the Vice President of WHIRLPOOL ACCEPTANCE CORPORATION, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Maryanne Crawley
Notary Public

[Notarial Seal]:

MARYANNE CRAWLEY
Notary Public, Wayne County, MI
My Commission Expires May 20, 1990

My Commission expires:

Commonwealth of Pennsylvania)
) ss:
County of Allegheny)

On this 24th day of August, 1987, before me, personally appeared Paul A. Briggs, to me personally known, who being by me duly sworn, says that he is the Vice-President of MELLON BANK, N.A., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Kathleen T. Pitchford
Notary Public

[Notarial Seal]:

My Commission expires:

KATHLEEN T. PITCHFORD, NOTARY PUBLIC
PITTSBURGH, ALLEGHENY COUNTY
MY COMMISSION EXPIRES MARCH 16, 1991
Member, Pennsylvania Association of Notaries

Exhibit A
to
Loan and Security Agreement

NONRECOURSE PROMISSORY NOTE

\$5,870,320.90

Pittsburgh, Pennsylvania
August 24, 1987

FOR VALUE RECEIVED, WHIRLPOOL ACCEPTANCE CORPORATION ("Lessor"), hereby promises, subject to the limitations hereinafter set forth, to pay to the order of MELLON BANK, N.A. ("Lender"), at Pittsburgh, Pennsylvania, on or before the earlier of January 15, 2007 (the "Expiration Date" hereof) or the applicable Maturity Dates, or at such earlier times as referred to in the Agreement hereinafter referred to, a principal sum of FIVE MILLION EIGHT HUNDRED SEVENTY THOUSAND THREE HUNDRED TWENTY DOLLARS AND NINETY CENTS (\$5,870,320.90), in lawful money of the United States, together with interest, in like money, from the date hereof on the unpaid principal amount hereof from time to time outstanding at the rate or rates per annum determined pursuant to Section 2.5 of, or as otherwise provided in, the Agreement hereinafter referred to, payable on the dates set forth in Section 2.6 of, or as otherwise provided in, the Agreement.

The Mandatory Reduction Dates and Mandatory Reduction Amounts corresponding to this Note are as set forth in the Amortization Schedule attached to this Note as Schedule A and incorporated by reference herein.

If any payment of principal or interest on this Note shall become due on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in computing interest in connection with such payment.

This Note is the Note referred to in, and is entitled to the benefit of, the Loan and Security Agreement, dated as of August 20, 1987 (as the same may be hereafter amended, modified or supplemented from time to time, the "Agreement"), between Lessor and Lender. This Note is secured as provided in the Agreement, including, inter alia, certain equipment leased to The Dow

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. TRANSFER HEREOF IS SUBJECT TO THE PROVISIONS OF SECTION 10.8 OF THE AGREEMENT

Chemical Company, a Delaware corporation ("Lessee"), pursuant to a Master Lease Agreement (the "Lease") dated as of August 20, 1987 between Lessor and Lessee. Reference is hereby made to the Agreement and the Lease for further specification of the rights of the Lender hereunder and for a description of the property assigned and mortgaged, the nature and extent of the security and the rights of Lender and the holder of this Note and of Lessor in respect of such security. This Note is subject to certain mandatory prepayments and the maturity hereof may be accelerated, all as provided in the Agreement. Capitalized terms used in this Note which are not otherwise defined herein shall have the meanings given in the Agreement.

The unpaid principal amount of this Note, the unpaid interest accrued hereon, the interest rate or rates applicable to such unpaid principal amount and the duration of such applicability shall at all times be ascertained from the records of Lender, which shall be conclusive absent manifest error.

ANYTHING HEREIN TO THE CONTRARY NOTWITHSTANDING, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE AGREEMENT, THIS NOTE IS A NONRECOURSE OBLIGATION OF LESSOR, AND THE LIABILITY OF LESSOR TO MAKE PAYMENTS OF PRINCIPAL OF AND INTEREST ON THIS NOTE IS LIMITED SOLELY TO PAYMENTS OUT OF THE RENTS UNDER THE LEASE ASSIGNED AND PAYMENTS OUT OF THE PROCEEDS OF THE OTHER SECURITY PROVIDED IN THE AGREEMENT, AND NO HOLDER OF THIS NOTE SHALL HAVE RECOURSE TO LESSOR OR TO ANY OF THE OTHER ASSETS OF LESSOR IN THE EVENT THAT SUCH RENTS AND PROCEEDS SHALL NOT BE SUFFICIENT FULLY TO DISCHARGE THE LIABILITY OF LESSOR HEREUNDER.

Lessor hereby waives presentment, demand, protest or notice of any kind otherwise required in connection with the payment of principal of or interest on, or enforcement of, this Note, except to the extent expressly required by this Agreement. This Note shall be governed by the laws of the Commonwealth of Pennsylvania.

WHIRLPOOL ACCEPTANCE CORPORATION

By _____

Title: _____

SCHEDULE A

TO

NONRECOURSE PROMISSORY NOTE

ORIGINAL PRINCIPAL AMOUNT: \$5,870,320.90

AMORTIZATION SCHEDULE

<u>Mandatory Reduction Date</u>	<u>Mandatory Reduction Amount</u>	<u>Remaining Loan Ceiling*</u>
January 15, 1989	\$ 42,725.13	\$5,827,595.77
January 15, 1990	71,523.38	5,756,072.39
January 15, 1991	78,675.75	5,677,396.64
January 15, 1992	86,543.30	5,590,853.34
January 15, 1993	95,197.60	5,495,655.74
January 15, 1994	104,717.37	5,390,938.37
January 15, 1995	115,189.19	5,275,749.18
January 15, 1996	481,192.00	4,794,557.18
January 15, 1997	253,166.71	4,541,390.47
January 15, 1998	250,749.16	4,290,641.31
January 15, 1999	298,331.13	3,992,310.18
January 15, 2000	288,446.96	3,703,863.22
January 15, 2001	307,593.28	3,396,269.94
January 15, 2002	384,155.30	3,012,114.64
January 15, 2003	473,319.43	2,538,795.21
January 15, 2004	590,053.67	1,948,741.54
January 15, 2005	653,843.31	1,294,898.23
January 15, 2006	724,529.02	570,369.21
January 15, 2007	<u>570,369.21</u>	0
	\$5,870,320.90	

* Assumes no reductions in the Loan Ceiling except for reductions by Mandatory Reduction Amounts on Mandatory Reduction Dates.